



**Complementary documents to the JIU report on Staff-Management relations in the  
United Nations specialized agencies and common system (JIU/REP/2012/10)**

**FOREWORD**

Each of the following documents is a complement to JIU/REP/2012/10. They were initially conceived as one or two pages each, to be gathered in a chapter of the report. The significant diversity of the situations met in the respective organizational environments, in particular in terms of the quality of the relations required more illustration and exemplification than it was possible with the common denominator of the general report itself, limited by constraints in length (word limits in place at the time) and translation costs. This was particularly true where, for concrete reasons differing in each organization, Staff-Management relations (SMR) were tense and/or when they changed much during the period under review (basically 2009-2011). The limited descriptions envisaged have been expanded upon by the wealth of information gathered during parallel interviews with management and staff, their respective responses to the JIU questionnaires, and many public documents provided by both sides to the JIU.

In view of their sensitive nature, the specific texts on SMR in each organization were first conveyed, in July 2012, for factual corrections and substantive comments as draft documents, only to the staff and management representatives in each organization concerned. Following the reactions gathered in some cases, the Inspector received again some representatives of the party concerned, and sometimes of both “sides” to see whether more supporting evidence could be found to better balance views where this was felt necessary, and to better attribute the language used to the respective parties concerned. The length of some parts has increased accordingly.

This is another opportunity to underline that JIU has no a priori positive or negative position vis-à-vis any organization of the United Nations system. A posteriori, JIU may have judgments on the basis of principles and facts. In any case, transparency should not be an issue for any of the social partners and the whole series demonstrates the importance of personalities, particularly those of the Executive Heads and Chairs of staff representatives’ bodies, on the quality of SMR.

These documents have been prepared as part of the JIU project A 368 under the coordination of Inspector Gérard BIRAUD and are published for information. They were tested against the JIU collective wisdom. They have not been subject to translation.

**To read the report JIU/REP/2012/10, [click here](#)**

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## **Food and Agricultural Organization (FAO) (2009-2012)**

1. Overall SMR quality at FAO is rated as “average” by both FAO management and the Union of General Service Staff (UGSS-FAO)<sup>1</sup> and as “poor/challenging” by the Association of Professionals in FAO (AP-in-FAO). The two staff representatives bodies (SRBs)<sup>2</sup> (AP-in-FAO, UGSS-FAO) respectively represent all P staff organization-wide (except National Professional Officers) and General Services (GS) staff in headquarters (HQ),<sup>3</sup> and along with the Association of Retirees (AoR) coordinate their work through an Inter-staff Coordination Committee. They pointed to a host of challenges to account for the current state of SMR as outlined below.

### **A. Challenges emanating from the existing organizational culture**

2. A 2011 staff survey carried out by the Hay Group, an independent consulting company, concluded that:

*“Many employees do not think that the FAO work culture supports and encourages open and direct communication with employees or hearing employee views before decisions are made. Closely related to this, many employees do not feel that FAO has a work culture that seeks to build trust between management and employees. Many respondents do not believe that FAO deals with all employees fairly. These are important cultural issues to investigate in more detail with employees to see what the root causes of these issues are and to obtain ideas as to how this can be improved.”<sup>4</sup>*

3. The survey’s findings were also restated by the SRBs during interviews with the JIU. They noted that staff morale was very low precisely due to the aforementioned factors (alleging a lack of trust and transparency and poor communication by management regarding its actions).

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<sup>1</sup> UGSS represents GS staff in both FAO and WFP. Separate responses to the JIU questionnaire were provided by UGSS Staff Representatives (SRs) in each organization. Subsequently, this section only focuses on concerns raised by UGSS SRs in FAO while WFP specifics section will focus on concerns raised by UGSS SRs in WFP.

<sup>2</sup> A third SRB – the Association of Retirees (AoR) is not dealt with in this report as the AoR has very little say on SMR issues and rather focuses its activities directly on the work of the Pensions Committee.

<sup>3</sup> While FAO-UGSS currently represents HQ based GS staff as well as those in liaison offices (considered as out-posted HQ), it emphasized that it received requests on a daily basis from field-based GS staff with requests to enroll, but was unable to accept them as per an understanding that the right to be represented depended on the numbers of employees who asked for it. To address this, it conducted an electronic survey among all FAO GS staff in the field (ending in February 2012) which resulted in 50.25% of survey recipients (390 out of 776 staff members) stating their wish to be represented by the UGSS. The SRB subsequently sent a letter (on 14 March 2012) to the FAO DG requesting that the recognition agreement be amended accordingly. However, management in its email response on 29 June 2012 interpreted the survey result as only a wish to join, rather than an actual request to join. Subsequently, management noted that there was no clearly identified number of staff for the Director General (DG) to take a decision. The Union subsequently sought clarification from the legal unit as to the required figure that will allow it to represent field staff. FAO-UGSS does not agree that the right to representation should be linked to a specific threshold and notes that “even if a single person asks to be represented, he/she should be given the opportunity.”

<sup>4</sup> 2011 FAO Renewal Employee Survey "Listening To You" Results Report, June 2011, Hay Group. The aims of the Survey were to achieve the following: Assess employee attitudes towards Reform and Renewal; Provide feedback on communication effectiveness and help identify the most useful channels for communicating with employees; and Be forward-looking: set a benchmark for future surveys and progress. Hay Group presented the results of the survey to the IPB, SMM, JAC/FAR and PPAB in April/May 2011.

They particularly expressed their frustration with regards to inadequate consultation and communication practices from the management side on issues that impact upon staff welfare. According to them, Human Resources (HR) management would send emails directly to staff-at-large without first consulting on them with staff representatives (SRs). Subsequently, when new elements were introduced as part of the FAO reform process, there was a general lack of trust on what its implications were among staff-at-large.

4. SRBs felt particularly marginalized in the preparation of administrative issuances, alleging that management would only ask them for their feedback at a late stage and that they would often receive documents only a few weeks or few days in advance and thus not have sufficient time to consult their constituents and respond accordingly. When they did provide a response, they alleged that their views were often ignored by management. They highlighted several forums as well as specific instances of little or no consultation and poor communication:

(a) SRs could neither participate nor be represented in the HR Committee (HRC) of FAO (inactive since the beginning of 2012) composed of higher management, even though some of the topics had direct consequences upon staff welfare. AP-in-FAO alleged that it wanted to take part in the HRC's discussions on the mobility policy which changed from voluntary to mandatory but was not allowed to present its views.

(b) SRs were neither invited nor allowed to participate – be it in their official or personal capacity – in management organized focus groups where participants were often pre-selected. They highlighted two such focus groups on career development and competencies where SRs were not allowed to participate and were only shown the outputs once prepared by management. While such focus groups could be useful in that SRBs alone cannot come up with all perspectives and ideas on an issue, on the negative side, management could use such forums to misinterpret individual views expressed as representing those of the staff-at-large and thus create divisions among the latter.

(c) During the process of appointing an ombudsman, SRs were only consulted at the very last stage of the selection process to provide their opinion on a short-list of four candidates – selected by management without prior consultations with SRs. The grade corresponding to the job description of the ombudsman was also changed from D1 to P5 without consultation with SRs and no criterion was established for SRBs to contribute to the process.

(d) SRs regretted the alleged reluctance of management to issue joint minutes for informal meetings, as to protect itself from any future changes in position. Even for meetings of formal joint bodies, the SRBs noted that management, for similar reasons, did not want to make minutes public as it considered it as work in progress. In the view of the SRBs, the absence of communication was worse than any risk of misinterpretation.

5. SRBs further noted that despite FAO being one of the first United Nations common system entities to recognize negotiation rights in its Staff Regulations,<sup>5</sup> there was no existing institutional mechanism for negotiation (ex. JNC). Consequently, the degree to which the views of SRBs were taken on board and implemented depended on the good will and personality of those in senior management, notably the Director General (DG); even when joint agreements

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<sup>5</sup> Staff Regulation 301.8.1 gives SRBs the right to “negotiate with the Director General (DG) with respect to the terms and conditions of employment of the staff and general staff welfare”. The two recognition agreements signed between the DG and the two SRBs also reaffirm this right to negotiate on behalf of their respective constituencies.

were reached between HR and SRs, the DG maintained the discretionary power to accept or reject them. In this regard, the SRBs highlighted a negotiated agreement on mobility reached with HR which was subsequently disregarded by senior management.

6. SRBs further lamented that FAO Member States (MS) were inadequately informed of their concerns, as SRs had no means of direct access to MS apart from being allowed to address them once a year via a short general 3-5 minute statement in the Conference or Council. **The Inspector finds merit in the proposal of the SRBs that the Executive Head should regularly report to MS on SMR issues and processes, including progress made on issues under consideration**, in the hope that such report could be made jointly.

7. In responding to the assertions of insufficient involvement by the SRBs in decision-making, FAO management noted that it should be kept in mind that the organization has been going through extensive restructuring and reforms during the past few biennia. These successive reforms have impacted the staff through relentless waves of restructuring, off-shoring and redeployment (among others), with a corresponding impact on staff morale. However, notwithstanding the significant challenges, management was of the view that the Organization has handled well issues like redeployment, post-abolishment and the introduction of changes following the IEE review. It has done so by putting in place structures like the Joint Administrative Committee on FAO Reform (JAC/FAR) and the Task Forces on Redeployment that – in its view - have been successful joint Staff-Management mechanisms that inter alia contributed to the successful implementation of changes and avoided forced termination of staff.

#### **B. Other challenges - Growth in non-staff contracts**

8. Both SRBs alleged that over 40 per cent of professional category work at FAO was performed by non-staff working under Professional Service Agreements (PSAs). Additionally, some PSA holders also performed General Services (GS) tasks as some contracts would be issued stipulating 50 per cent P and 50 per cent GS functions. While, in principle, PSAs were meant to be for short-term consultants with technical skills, in practice, PSA holders worked in the FAO premises and had their own offices and phone lines. However, as non-staff, they could not join AP-in-FAO and thus had no representation, even though they faced insecure employment relations as they could be hired and fired more easily than regular staff members.

9. The SRBs noted that while the economic crisis encouraged MS and organizations to increasingly use PSAs as a cost-saving measure (lower compensation levels and less secure employment conditions), it was also transforming FAO into a “de-facto consulting company” and creating “quality assurance challenges” as compensation levels for external collaborators were insufficient (compared to pay in other organizations) to attract quality experts. PSA’s also allowed the organization to bypass geographical distribution requirements by employing professional technical personnel from over-represented countries on non-staff contracts.

#### **C. The Way Ahead**

10. In moving forward to address the challenges affecting SMR at FAO, the aforementioned Hay Group survey highlights a major role for senior management:

*“Senior Management in FAO (Assistant Director General and above) could communicate more effectively their vision of a new organizational culture. Organizational culture often stems from the actions and communications of Senior Management, as employees view them as role models for the organization. For culture change to occur at lower levels of the organization, employees*

*often require guidance from Senior Management.”*

11. The SRBs confirmed this view, noting that the organizational structure – which has a long tradition of a top-down approach - needs to be transformed through senior management taking SRBs much more seriously - respecting and recognizing them as partners, and promoting their full involvement and participation in consultation processes, particularly on Human Resources Management (HRM) issues, via both formal and informal communication channels (ex. informal coffee meetings organized by management between senior managers and staff-at-large can serve as a useful platform for SMR provided that SRs are also encouraged to participate in their official capacity, such that both collective and individual views can be genuinely expressed). Both management and SRBs welcomed the idea of training on SMR issues.

12. While FAO management highlights the fact that the Organization is only called upon to consult/negotiate with the SRBs on matters impacting upon staff welfare and their conditions of employment and that this does not and should not translate into joint decision-making, SRBs note that their involvement in the development stage would give SRs more opportunity to better understand the constraints on and needs of management and for management to better understand staff concerns. SRBs also noted that any agreements reached should also contain follow-up mechanisms outlining who is responsible and for what, time-lines on reporting and criteria to measure impact/results. The Inspector welcomes FAO management’s acknowledgement in response to JIU questionnaire as well as during its interview with the Inspector that communication with SRs needs to be improved and that SRBs should be consulted at an early stage on issues affecting staff welfare.

13. Last but not least, given that SRs in both SRBs receive varied percentages of time release (5, 20, 30 or 50 per cent) to perform their official staff representational functions, their managers should fully respect and provide for such release and adjust their office duties accordingly. In this regard, FAO management should conclude and adopt at the earliest, the procedural agreement to implement the recognition agreement with AP-in-FAO to formalize (among others) time release for its SRs. The Inspector welcomes the acknowledgement by FAO management during its meeting with the JIU that discussion was needed on taking into account in performance appraisals the requirements of time spent on staff representational functions.

#### **D. Useful practices from the UGSS Control Board**

14. UGSS’s internal disciplinary body – the Control Board – has the power to discipline SRs if time-release privileges are abused or if anti-Union acts are committed (ex. misusing funds, resorting to physical abuse), with disciplinary measures ranging from warnings, suspensions, loss of SR status and loss of SRB membership. In 2007, the Board published “guidelines of conduct for secretariat and executive committee members” giving itself the mandate to take corrective actions when members attend meetings infrequently, arrive late or stay only for the items of interest to them. In the Inspector’s view, such a mechanism and its corresponding guidelines are worth being discussed and possibly replicated by SRBs across the United Nations common system as a means to further their own accountability.

## **International Atomic Energy Agency (IAEA) (2009-2011)**

### **A. Size and Statute**

1. IAEA has 2308 staff members, out of which 1500 or 67 per cent are voluntary members of the Staff associations. As of 1 June 2011, 201 of the 1143 regular posts in the Professional and higher categories were vacant. The labour force was complemented by 197 consultants holding Special Service Agreements and many interns (214 from 2009 to 2011). The statute of the Staff Association of the International Atomic Energy Agency<sup>6</sup> is written with particular care, makes use of electoral units<sup>7</sup> and works well, ensuring democratic processes. Amendments are made occasionally to fine tune it and keep it functioning well, and those shall be made by a simple majority vote in a referendum of the Staff Association. (See Art. 34.1 of the Administration Manual - AM). According to article 33 of AM.II/14, audits are performed by the Staff Union Board of Auditors. External Auditors may be hired only in the case that no qualified auditors can be elected (see Article 33(8)). At present, auditors who have been appointed by the Staff Assembly are internal staff.

### **B. Relationship between line managers and Human Resources management**

2. In each department at IAEA, there is a person responsible for HR – typically the administrative officer. Matters of interest to the Staff Council (SC) are often addressed and, where possible, resolved at the Division or Section level. If staff members have issues to raise, they either contact their line managers directly or refer to the SC. In the first case, line managers advise staff and try to solve the issue before it escalates. The limited delegation of authority to the Human Resources (HR) Department does not help to extend the benefits of the relatively good informal relations, maintained with the President of the Staff Council (PSC) and the staff-at-large. Rather than a leading role under the direct authority of the Director General (DG), the HR department subsequently plays a generally supporting role with regards to line managers, through ensuring that issues are resolved according to the merits of the case – and that often means that the division of HR supports the staff member’s perspective, including provision of legal advice.

3. In most cases, HR management performs the role of a partner rather than a controller in its dealing with line managers, who have a certain degree of freedom, particularly the senior managers. Departmental line managers with HR functions are responsible for new staff training. While line-managers receive some flexibility from HR with regards to recruitment, there is an oversight function to be performed that is provided by HR. But sometimes, line-managers do not show interest in resolving HRM or SMR issues, as they are in contact with the staff on a daily basis and are hesitant to enter into potentially confrontational situations.

### **C. SMR quality**

4. In 2010, at the highest level of the Administration, the communication between the Administration and the staff representatives was considered excellent for a long time. Official texts clearly foresee interaction as purely consultative, but in general the two sides are willing to find compromises. Both sides assess the dialogue to be positive. In the Staff Council’s view,

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<sup>6</sup> AM.II/14 2009-12-11.

<sup>7</sup> There are 32 Electoral Units each having one representative and one alternate - and each Unit is entitled to one vote regarding Staff Council decisions.

it was more positive in 2010 than in 2011. The SC President meets every week with the HR Director, every two weeks with the Director of General Services staff, every month with the D.G. Advisor on management and quarterly with the Director of Security. “*The more IAEA Staff Council can talk with all officers, the more it helps preventing problems.*” The staff has the view that most HRMs practice an “open door policy”. Either side can suggest proposals, but as negotiation is not supposed to take place, it makes “consultation” processes particularly critical, in terms of mutual respect and understanding of each other’s views.

#### **D. Joint bodies**

5. The Joint Advisory Committee (JAC), to which draft administrative instructions are submitted, meets at a high level, with the Chair and Vice Chair(s) of the IAEA SC sitting with directors for HR and Legal Affairs. In 2011, the JAC had sub-committees on Gender Concerns and on Health and Life Insurance. In a rather transparent manner, which can be seen as a best practice, the IAEA Administrative Handbook describes the purpose, authority, appointments procedure, composition and Terms of Reference of the permanent “joint Staff-Management bodies.”<sup>8</sup> A transparent Interview Panel for recruitment is worth a special reference. Some joint working groups have worked particularly well. For instance, the one working on the conditions of service of the IAEA inspectors gathered representatives from HR as well as IAEA inspectors and SC representatives who made a thorough analysis and could collectively raise new issues. For example, they raised the issue of an option for inspectors to travel in pairs for security reasons in some countries.<sup>9</sup>

#### **E. Time release and facilities**

6. IAEA is among the minority of agencies to have formal written provisions<sup>10</sup> on facilities and equipment to be granted to the Office of the President of the SC, whose post is financed by the Agency as the post of the Executive Secretary of the SC<sup>11</sup>, as established since 10 September 2007 by the INF-NOT 80 “Reasonable time for staff representation activities”, and the other representatives and alternates of the SC are released for Staff Council and some Joint Committees meetings, including Vienna International Centre (VIC)-wide meetings. The staff representatives and alternates concerned are released “*on special leave with full pay to attend meetings of the Federation on International Civil Servants (FICSA) (of which the IAEA SC is a member), workshops or other inter-agency organs*”. The note interestingly recognizes the need for SC members to have reasonable time for assisting individual staff members. The memorandum also requests supervisors to facilitate such reasonable absences of Staff Council representatives, and alternates to attend to these matters, but gives to the staff concerned the responsibility “*to ensure that their regular work does not suffer as a result of carrying out these responsibilities*”. Other staff representatives (SRs) are released “*on an ad-hoc and reasonable basis*”. While for the management, these provisions were able to meet the needs and “*to work well for all concerned*”, the SC sought more time release at the Vice President level on a half-time basis. The question of the source for reimbursement of expenditures resulting from participating in the Federation of International Civil Servants Associations (FICSA) Council was also raised, and is under appeal.

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<sup>8</sup> AM.II/13, issued as of 2010-04.

<sup>9</sup> The fact that the present President of the Staff Council is a former inspector helped to find common solutions in such discussions.

<sup>10</sup> DG Inter-offices memorandum INF/NOTE/80 Reasonable time for staff representational activities.

<sup>11</sup> See Art. 16.1 of the SA Statute.

## **F. Grievances**

7. The number of harassment cases coming per year to the attention of the Division of HR is about 5, according to the management, and the number of possible real cases is much higher, according to the Staff Council. The serious criticisms by the SC of the new written procedures on investigation (IAEA Office of Internal Oversight Services' (OIOS)),<sup>12</sup> are firmly opposed by the administration, which states that OIOS does record interviews, and that not a single staff member under investigation has complained about their right of representation. Staff members have a right to observers during interviews which they take. The SC, in particular, regretted that the OIOS neither provided for consultation with the HR department nor for the right of representation for staff members, or an explanation for OIOS's refusal to record statements of interviewees.

## **G. Staff Surveys**

8. Staff satisfaction surveys – quite an intensive exercise – are conducted from time to time. The last one was conducted a few years ago at a transitional time for the Agency. It raised issues that were coming up with the changes. No such survey seems to be currently planned by IAEA (*see section 6.3*).

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<sup>12</sup> Sec/Dir 99, 6 April 2010

## **International Civil Aviation Organization (ICAO) (2009-2011)**

### **A. Legal framework**

1. As indicated by the management, membership in the Staff Association is voluntary. All regular and fixed-term staff members (Professional and General Service) are eligible to participate in the Association and its activities, contrary to persons engaged under Special Service Agreements, gratis personnel, interns, temporary staff and Junior Programme Officers.

2. Staff-Management interaction: The language of the Service Code Article VIII on Staff Relations is strongly participative in principle, with article 8.1 directing “*effective participation of the staff in identifying, examining and resolving issues relating to staff welfare, including conditions of work, general conditions of life and other human resources policies*”; however, article 8.7 makes clear that even the main joint body can only provide advice to the Secretary General.

3. Staff Rule 8.2 formally mentions the possibility of one or several recognized Staff Associations (SAs) and the criteria for representativeness to be used by the executive head (EH) “*to recognize any group as a representative association of staff members.*” Rule 8.5 states that “*each recognized association of staff members shall have at least one representative*” in the SA Committee, but actually only one Staff Association does exist: the Staff Association of the International Civil Aviation Organization (ICAO SA). With a 29-page document, it has the longest and most detailed of all SRB statutes, named SA “rules”. It is worth noting that the Professional staff and the General Service staff have their own respective committees (with detailed ToRs in the SA Rules 5.5.1 to 5.5.5) as well as a joint Policy Committee for issues of common interest (under Rules 5.4.1 and 5.4.2.). This is a useful practice to reconcile interests.

4. As regards the Member States, Staff Regulation 8.7 gives an extraordinary power to the ICAO Council. “*When the (Joint Staff Advisory) Committee is evenly divided and is unable to agree on the advice to be tendered to the Secretary-General, or when the Secretary-General does not accept the advice agreed upon by a majority of the Committee, the Secretary-General shall, if so requested by a majority of the staff nominees, refer the matter to the Council through the appropriate Standing Committee of the Council. Such a request shall be accompanied by a statement in writing of their views on the case*”. In other circumstances, Staff Rule 8.3, in another unique provision, formally denies to the recognized SRB the “*right of presenting its views to the Assembly, the Council or any of their subordinate bodies.*” However, it creates a general exception through formal authorization by the EH upon request. According to ICAO-SA, “*in the last 5 to 7 years, the administration was responding to whatever was requested by the governing body, (including zero nominal growth budgets) but ignored some of the requests of the staff.*”

### **B. Period under Review (2009-2011)**

5. Nonetheless, the practice goes further. In 2011, the management describes it as a success that the “*Staff Advisory Committee (SAC) plays a critical role in arriving at negotiated positions that are acceptable to both staff and management.*” The Committee met often during the revision of the ICAO Service Code, and could recommend changes in Staff Rules to the Secretary-General (S.G.), particularly those pertaining to conditions of service. According to the SRB, “*there is a new administration and a new Secretary-General, so the relationship between the staff and management has improved considerably (in the past 2 years).*” The SRB recognizes that “*agreements are reached and done in good faith.*” Minutes (summary of

meetings) can be helpful, since they are posted on SA's public website. Once agreements are reached, they are usually respected. SR 8.5 details the rules applied to the SAC, including the Chair and Vice-Chair switching roles on a yearly basis.

6. Since 1991, an Ombudsman and an Alternate Ombudsman (one for the "GS" category and one for the "P" category) have been appointed by the Secretary-General, in consultation with the Executive Committee of the Staff Association (Staff Reg. 1.16 and Staff Rule 101.16). They seem to play a particularly important role in ICAO as an informal mechanism that, according to management, has been established "*to assist the staff if they have an issue*" and has proved to be very successful. Both the management and the SA have very good relations with the ombudsman, who thus plays the role of go-between, to the extent that some comments from SA on some issues were made known to the management through this mechanism, for instance on the Medical and Social Security System issues.

7. At the regional level, in spite of the provision of the SA Rules that out of the six members of both its internal "*professional*" and "*general services policy committees*" (Professionals Policy Committee (PPC) and General Services Policy Committee (GSPC)), "*one member shall originate from a Regional Office and be elected exclusively by members in the Regional Office,*" SMR is recognized by both sides as only "average" away from headquarters, and consultation at that level as "challenging" by the management. The regional offices would normally channel their concerns through the President of the Staff Association via the respective regional representatives (points of contact). But there are no elected staff representatives in these offices.

8. ICAO presents a unique case of formal reduction of time-release for representational functions: in the past, the Chairs of PPC and GSPC were granted 30 percent time-release and the Executive Committee (ExCom) members were granted 10 percent. However, this practice has been abolished, to the detriment of the ExCom members. Three years ago, the President of ICAO SA requested that each member of the Executive Committee of the SA be given some release time as well. It has been agreed that this issue would be considered on a case-by-case basis, on the basis of written requests by the ICAO SA President as a matter of one or two days or one afternoon of time-release, an arrangement that satisfied the ICAO SA.

9. The JIU noted, as feedback of the draft report, that the Staff Association was currently undertaking a reform of its statutes and, in that context, welcomed and would carefully study all of the Inspector's suggestions and recommendations related to the need to address the current challenges of protecting the rights of non-staff and strengthening the ties with the regional offices. The Executive Committee was also studying the possibility of re-joining the Federation of international civil servant associations (FICSA).

10. The Inspector found out from feedback information that, effective from 1 January 2012, ICAO has implemented an Ethics Framework, including, inter alia, provisions for the protection of staff against retaliation. An Ethics Officer has also been recruited and is responsible for overseeing adherence to the Ethics Framework, providing guidance and training, etc. The mechanisms are, therefore, in place to protect all staff against retaliation, including, of course, staff who undertake representative functions. The Inspector finds these developments encouraging.

## International Labour Organization (ILO) (2008-2011)

1. The International Labour Organization is the only “tripartite” organization, with a governing body representing governments, workers and employers of 185 Member States. Its work is founded on principles of social justice, social dialogue, the establishment and supervision of international labour standards and promotion of decent working conditions. It has adopted 189 conventions and 165 active recommendations on all aspects of employment and work, including fundamental Conventions on Freedom of Association and the right to collective bargaining. Approximately 3000 employees work for its secretariat, the International Labour Office: 1755 as permanent staff (including 969 in its Geneva headquarters and 786 in external services) and 1,256 for technical cooperation.

### **A. Year 2000 as a milestone for a new Human Resource Strategy and the appearance of Collective Bargaining for ILO staff**

2. Discussions in the Programme, Financial and Administrative Committee (PFAC) of the ILO Governing Body (GB)<sup>13</sup> in March 2000 reflected the reactions of the three groups to:

- (a) the proposed **new version of the ILO HR Strategy** (GB 277/PFA/10) where one of the three significant lines of activity initiated was the “*opening of a positive dialogue with the new ILO Staff Union Committee to establish a partnership approach to the development and implementation of key elements of the ILO human resources strategy*” and
- (b) the signing of the Recognition and Procedural Agreement (see below paras. 3b) and 13).

3. The proposed HR Strategy<sup>14</sup>, in a section called “a partnership approach to human resources”, stated rightly (para. 7) that, “*The means of developing and implementing the new HR strategy for the Office are hence just as important as the content of the strategy itself*” and observed (para. 8) that “*representatives of the Office and of the Staff Union Committee met for intensive discussions in Turin over a five-day period at the end of January. The agenda for the meeting covered all of the major changes to personnel processes collective bargaining, grievance handling and harassment at work, recruitment and selection, development appraisal and job classification. At the meeting, the Office and the Staff Union Committee reached agreement on the principles and objectives concerning each of the agenda items and established a detailed “one-year” work-plan for their implementation*”, foreseeing:

- (a) *At the centre of the partnership approach to HR issues is a new **Joint Human Resources Committee** that will replace a series of existing standing and ad hoc committees. The Committee will have two key roles. It will act as the review mechanism for the application of the new HR processes with respect to quality assurance and fairness. It will also be the forum for the discussion of future development plans on training, staff development and the planning of resourcing needs*; and to “*produce an annual Human Resources Review for publication at the beginning of each year before the March session of the Governing Body*”<sup>15</sup>;
- (b) Under “**Collective bargaining**”, para. 10 announced that “*A **Recognition and Procedural Agreement (RPA)** was to provide a formal process for further development and implementation of the HR strategy and a framework for ongoing discussion of other collective issues. The Agreement establishes in its art. 5 a new **Joint Negotiating Committee***”

<sup>13</sup> GB 277/10/2(Corr.1), Second report: Personnel questions, para. 2.

<sup>14</sup> GB.277/PFA/10.

<sup>15</sup> Ibid, para. 9

*(JNC) as the forum for discussion and agreement on major collective issues. It defines the subjects within the scope of JNC debate, JNC operating procedures and the processes to be adopted where agreement cannot be reached.*” A copy of the Agreement was attached in Appendix II of the Strategy making the duality of two new committees as defined above more troubling.

(c) Under “**Grievance handling and harassment at work**”, the parties envisaged “*new procedures for dispute and grievance settlement, including issues relating to harassment at work*”, to be “*agreed and implemented as a matter of urgency*”. “*As well as the principles underpinning*” them, including “*speed, transparency, simplicity and fairness*”, which [might] include roles for conciliation, mediation and/or an ILO ombudsperson.” (para. 11).

4. The staff representative celebrated, before the same GB<sup>16</sup>, “*the beginning of an era of collective agreements in the Office, something that successive Staff Union Committees had been endeavouring to achieve since at least 1982*”. The event “*signaled a change in orientation towards the ILO’s constituents and civil society as the Office moved from advising others on international labour standards, to a “people orientation”, where the right to bargain collectively was implemented.*”

5. The representative of the Worker members of the GB greatly appreciated the recent S-M negotiations “*for various reasons, but primarily because it would now be clear to other organizations in and around the UN system that in the ILO there was established staff-management dialogue. He likened this situation to the self-application of ILO Convention No. 87<sup>17</sup> and the proposed collective agreement was proof of the success of these negotiations. As regards the establishment of the Joint Negotiating Committee, it would take time to gauge what the impact of this Committee would be in terms of negotiations surrounding the working conditions of the staff.*” “*However, it would be important to specify the field of competence that the Governing Body wished to accord to the JNC.* It was clear to his group that **negotiations through the JNC “should affect only those issues which were not driven by the common system.”**<sup>18</sup>

6. The spokesperson for the Employer Group “*welcomed the positive attitude of partnership being developed between ILO management, the Staff Union and the staff, but noted that the trust, motivation and commitment necessary to implement effectively the new human resources strategy would take time to develop as changes were required in organizational culture.(...).* **The Employers’ group was comfortable that the (proposed HR) strategy incorporated an approach relying on collective bargaining.** The proposed approach was rational and undermined neither management responsibilities nor the United Nations common system”.

7. The following interventions have shown that various governments, while favorable to the HR strategy and to the negotiations with the SU, needed to be reassured that those arrangements that involve the grading of staff and the collective bargaining (that the European countries and Switzerland supported) would not in any way undermine their role, in particular on the decisions to be made within the common system.” In their own words, “*as it would only apply to HR arrangements outside the sphere of the common system, the collective bargaining approach could be accepted, with the proviso that the Office take a conservative view of its*

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<sup>16</sup> GB. 277/PFA/10/2: section I: Statement by the staff representative

<sup>17</sup> Freedom of Association and Protection of the Right to Organise Convention, 1948

<sup>18</sup> GB 277/10/2(Corr.1), Second report: Personnel questions, para. 17. (On the common system, see the JIU report 2012/10, section IX)

*application*".<sup>19</sup> The representative of the Office "reaffirmed the ILO management's intention not to breach the common system either in the grading or collective bargaining proposals. Discussions had already been held within the common system as regards the grading proposals, and the collective agreement itself specifically excluded those matters falling within the jurisdiction of the common system. He then provided a series of examples of such matters." The Committee invited the Governing Body to endorse the approach described in paras. 10 (collective bargaining) to 19 of document GB.277/PFA/10 (HR Strategy).

## **B. Present Legal Framework of ILO SMR**

8. The ILO **Staff Regulations** are, in terms of detailed provisions, equivalent to Staff Rules in the other United Nations system organizations. There are no Staff Rules in ILO. While the Director-General has certain latitude to amend the Staff Regulations under a very narrowly defined set of circumstances, the vast majority of amendments to the Staff Regulations must pass through – and be adopted by – the Governing Body.<sup>20</sup> In the view of the Inspector, this distinguishes the ILO from all other organizations of the United Nations system, where, beginning with the United Nations itself (Article 97 of the United Nations Charter), the Legislative body has made a large delegation of authority to the Executive Head and is therefore not tempted to micro-manage the HR issues. Such a (costly) exception can be explained by the particular interest taken by the three parties of the organization in this area of their substantive competence.

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<sup>19</sup> Ibid, para. 20.

<sup>20</sup> In 1974, the Governing Body delegated authority to the Director-General to amend the Staff Regulations where: (i) the issue had no significant financial and policy implications and was not controversial or objectionable to the staff representatives; and (ii) the amendment was in line with policies of the other major international organizations. The intention behind this delegation of authority was also to lighten the administrative burden of the Governing Body and to provide the Office with the flexibility necessary to update the conditions of employment in line with agreements in the United Nations common system (GB.312/PFA/13).

In 1975 the ILO Governing Body accepted the Statute of the ICSC, and article 14.7 of the Staff Regulations (Amendments to the Staff Regulations) was modified to reflect the distinction in the Commission's Statute between the areas where the ICSC has decision-making authority and those where final authority on common system conditions of employment rests with the General Assembly. Since then, the Director-General has had a delegated authority to amend the Staff Regulations in line with any modification decided by the Commission under its own authority. Amendments to the Staff Regulations giving effect to modifications of common system conditions of employment which are decided by the General Assembly continue to require formal approval of the Governing Body before they can be implemented in the ILO.(GB.312/PFA/13 para. 6)

In 2011, with the frequency and timing of the Office's report on the decisions of the ICSC and the General Assembly on common system issues, new amendments to article 14.7 of the Staff Regulations were approved (see GB/312/PR) and as a result the proposed delegation of authority to the Director-General to amend the Staff Regulations would be subject to four conditions, regardless of whether the amendments relate to common system issues or not:

- (a) that any proposed amendment be without prejudice to the acquired rights of officials;
- (b) that proposed amendments be non-controversial, that is, that they not be objectionable to the Staff Union;
- (c) that they have no major financial implications, that is, that the resulting cost can be absorbed in the approved programme and budget; and
- (d) that they have no major policy implication, that is, that they are in line with the policy and practice of the organizations applying the common system. Any amendment that failed to meet all of these conditions would have to be submitted to the Governing Body. (GB.312/PFA/13 para. 11)

9. According to Art. 0.1, the SRs “regulate the conditions of employment and set forth the duties and rights of the officials of the International Labour Office. “Except as may otherwise be provided”, they “shall apply to all officials comprising the staff of the Office, as defined in article 2.1. According to the latter, ‘The staff of the Office shall comprise –

(1) Officials appointed without limit of time to posts established by the budget of the Organization and to such posts as may be created by the Governing Body under any special funds which may be made available to the Organization for that purpose; such officials shall be “established officials”.

(2) Officials appointed for a fixed term; such officials shall be “fixed-term officials”.

10. Article 0.2 defines the scope of the regulations by mentioning, besides the staff so defined, four categories of workers who “shall be subject to conditions of service to be determined by the Director-General, after consulting the Joint Negotiating Committee, namely:

a) Persons engaged for a period of less than one year, i.e. short term staff,

b) Officials of Branch Offices and National Correspondents,

c) Persons engaged as consultants and

d) Maintenance personnel”

11. While, prima facie, this text implies that the staff regulations are not applicable to them, as exceptions are alluded to in Art. 0.1, the ILO management specified to the JIU – and the Inspector fully welcomes it – that “the category “maintenance personnel” was discontinued more than 20 years ago, and that the other categories mentioned in that provision for historical reasons (short-term officials and consultants – or technical cooperation experts – which were initially not treated as staff members) have both been considered as staff members subject to the same conditions of employment as any other official for more than 30 years.” If this article is no longer valid, the Inspector candidly wonders why it has not been amended or deleted.

12. There is no Staff Regulation or Staff Rule in any other organization or entity of the United Nations system that points, namely, to a given staff union as representing “the interests of the staff” of the organization, thus making the “Staff Union of the International Labour Office” its unique partner in social dialog. Art. 10.1 c) of SRs states “Conditions of employment, including the general living conditions, of officials may be jointly determined by the Director-General or his or her designated representative(s) and the Staff Union through social dialogue, information, consultation and collective bargaining. The Director-General shall have authority to bargain collectively with the Staff Union, with a view to the conclusion of collective agreements. Collective agreements so concluded shall be attached to these Regulations” and therefore it could be inferred that they shall have the same legal value. The text goes beyond this (art. 10.1 e) by providing the same legal strength for the future to (any) “agreement between the International Labour Office and the Staff Union itself.”<sup>21</sup>

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<sup>21</sup>In this context, the question has been raised of the compatibility of those provisions with the principle of freedom of association and right to organize, consecrated by the ILO in its Convention 87. The mere fact that the ILO SU is recognized by the Administration (through the RPA or by the GB) does not contradict the provisions of the Convention. Staff members are free to join any grouping of their choice, including to defend and promote their collective interest, thus establishing another Union, should the staff so choose. The question of the respective representativeness of the competing unions would then be raised, each staff union having to demonstrate its performance in this respect, with possible consequent amendments to the Staff Regulations. In view of the number and proportion of staff members currently paying fees to the ILO SU on a voluntary basis, the Inspector (who touched upon the issue of multiple staff representation in the main report, pars 32 and 90) does not consider such speculation as credible.

13. Such legal texts, unusual in the United Nations system organizations, reflect the major provisions of the ILO **Recognition and procedural agreement** (RPA) signed in 2000 by the Director General and the Chair of the ILO SU<sup>22</sup> and noted by the Governing Body. Does it have the same legal strength as the ILO Staff Regulations? Art. 10.1 d) of the SRs states “*Where relevant, these Regulations will, subject to article 14.7 of the Staff Regulations, be amended to give effect to the provisions of a collective agreement or an amended agreement, or to reflect the expiry of an agreement*”. As mentioned above, a **Joint Negotiating Committee** (JNC) was set up under Art.5 of the RPA to assume the functions of the former Administrative Committee and the Selection Board. For internal grievance, the procedure is embedded in Article 13 of the staff regulations, on the terms and conditions of staff employment (see Art. 13.3.4, Art. 13.4.8 and 13.5). In 2003, a joint amendment to the 2000 RPA stated that “*Agreements on any of the policies, procedures and practices referred to in article 2, par 1, shall take the form, as appropriate, of formal collective agreements, negotiated amendments to the Staff Regulations, negotiated administrative circulars or joint communications. Implementation of agreements shall be subject, where appropriate, to the authority of the Governing Body concerning approval of amendments to the Staff Regulations or of the resources necessary to enforce the agreements. The Staff Regulations will be amended to meet the terms of this Agreement.*”

### C. SMR Crisis during the recent years

14. During the following years, and as soon as 2001<sup>23</sup>, besides some success, such as the satisfactory implementation of the mediation element in the new grievance procedure and the signature of collective agreements (CAs), some difficulties became apparent in SMR effectiveness. The troubling fact is that during the three years covered by the present JIU review, with the exception of the United Nations SMCC crisis described in JIU/REP/2011/10, the most visible (if not the most serious) SMR difficulties within the United Nations system occurred in the organization specialized *inter alia* in industrial relations, and culminated in November 2010 with a work stoppage/picket line blocking a Governing Body session. Most of the following elements which were found by the desk review, come from the effective external relations and press campaign led by the ILO Staff Union (media and press releases, information notes of the ILO SU to the staff at large on the Internet, made on a frequent and even daily basis in crisis time), which had no equivalent counterpart in the Office side. For instance, a chronology of the SMR ups and downs in the previous 10 years was called “How we got here – What it means for you?” (sic). Such information can naturally be considered as one-sided, but was wellprepared and informative.

15. The JIU received the following response from the ILO management to the question (sent to each organization) “*Was there any crisis in SMR in your organization in the years 2009-2011? If yes, please give specific examples (events, dates, description of issues, actors involved, actions taken and results)*”:

*“Following difficult discussions on several items concerning conditions of employment and related administrative matters, the Staff Union of the ILO (SU) had at an Extraordinary General Assembly of the SU decided on and subsequently initiated collective action, which included a blockage of a conference room from access by ILO Governing Body (GB) members during the November 2010 GB. Furthermore, the SU gave interviews and provided information to print media (incl. Le Monde) and television. Both the SU and Management had subsequently decided to have recourse to an independent external mediator to restore mutual trust and*

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<sup>22</sup> See JIU/REP2012/10, par 86 to 90

<sup>23</sup> See GB/280/11/2 par6,8, 12, 23, 24,

*respect and resolve the long-outstanding issues. Mediation is still ongoing and some progress has been made since and continues to be made.”*

16. In seeking to attain a balanced view of the aforementioned version of the of the roots of the coming crisis, and after having prepared the draft version of the present note, new contacts were established with the ILO management to get more detailed thoughts or facts on the subject. However, JIU was not able to obtain any detailed version of such events from that side, for the alleged reason that a comment given at that time would be a comment on the opinion of the SU and could enflame the old conflict: this was not considered to be in the interest of the organization and only ensured a detailed second reading of the various relevant official documents published by the ILO. **As a result, the following paragraphs are basically fed by the ILO SU largely disseminated documentation and can therefore appear as one-sided.**

**(i) 2008**

17. Negotiations in the years 2005-2006 had resulted in an Agreement reached at the level of the Joint Negotiating Committee (JNC) on a new collective agreement on a procedure for recruitment and selection; this Agreement, according to a “chronology” by the SU, was then rejected by the Director-General, who sought more autonomy in nominating staff at P4 and P5 levels. The ILO SU further noted that, in 2008, ILO management sought to consult the Union over an amendment it was proposing to Article 4.2 (f) of the Staff Regulations (which poses the principle of competition to fill vacancies by transfers and lists the cases for exceptions), with the objective to reclaim its power to use direct selection for such transfers. The Union was in the process of negotiating a CA on recruitment and selection when, allegedly, a set of guidelines was published by way of emails by the Office, making changes to the very recruitment procedures which were under negotiation. Also, according to SU, those were not negotiated, consulted or even communicated to it in advance.

18. The SU justified leaving the bargaining table after the alleged successive presentations of those changes as inexistent, then “minor”, then “management prerogative”. According to the same source, the Union launched an appeal to the Review Panel,<sup>24</sup> considered by it as independent and impartial. That body concluded unanimously that the “*unilateral modifications were in breach of the CA and of Annex I of the Staff Regulations.*”<sup>25</sup> The ILO SU considered that its position was also supported by the ILOAT judgment 2755 dated 09-07-2008, which considers (para. 9) that transferring an official in the same grade, by direct selection and without a competition, is a breach of the Staff Regulations. Allegedly, the SU voiced its willingness to negotiate, following the outcome of this case, within the framework of the broader recruitment and selection procedures, requesting the full respect of the CA (on a Procedure for Recruitment and Selection) currently in force, and insisted that such direct selections take place in a very narrow set of very exceptional circumstances.<sup>26</sup> The

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<sup>24</sup> Similar to an industrial court, the Review Panel is an independent body mandated to make recommendations on disputes arising over the interpretation or application of the Collective Agreements, or other areas of collective concern where the parties cannot agree. It has its legal basis in Article 7 of the Recognition and Procedural Agreement

(<http://www.ilo.org/staffunion/wp-content/uploads/2011/04/Bargaining-recognition.pdf>)

<sup>25</sup> This assessment was echoed by the Joint Advisory Appeals Board (JAAB), another impartial, independent dispute resolution body, similar to the United Nations Dispute Tribunal – which observed in its Annual Report that the way the Office currently organized competitions did not follow the procedure set out in the Staff Regulations. The full report of the Review Panel can be downloaded at:

[http://www.ilo.org/public/english/staffun/info/bargaining/download/recruit\\_review\\_0910.pdf](http://www.ilo.org/public/english/staffun/info/bargaining/download/recruit_review_0910.pdf)

<sup>26</sup> <http://www.ilo.org/public/english/staffun/info/bulletin/1384-a.pdf>

Administration “took note” of the findings, but did not change the proposals that it finally made to the Governing Body through the PFAC of March 2009.

**(ii) 2009**

19. The Annual General Meeting of the SU mandated its Committee to “**take any action which it deems necessary in the respect of freedom of association to secure due observance of CAs, the Staff Regulations and other relevant texts (...) to attempt to improve them, to prevent any initiative of unilateral modification of terms and conditions of employment,**” and “to mobilize the staff on [the recruitment of a legal adviser to be chosen and paid by the SU], in order to lead the Administration to waive its veto on [that] recruitment.” In early 2009, also according to the SU, the management tried to amend the Staff Regulations on the same point without negotiation and met with mass mobilization. Despite its disagreement with the idea of consulting over an issue subject to negotiation only (according to the RPA and the relevant CA on a Procedure for Recruitment and Selection itself), the Union made a series of counterproposals, intended to protect staff members from arbitrary transfers, and to clarify several issues within Article 4.2. However, no substantive discussion took place and the Union was informed that the Office would be pushing through its original request in the Governing Body without reference to any Union counter-proposal. In response, the Union mobilized the staff, bringing more than 500 staff members to an Extraordinary General Meeting,<sup>27</sup> where the adopted Resolution<sup>28</sup> called for strike action, should the Office continue to push forward its unilateral amendment. A petition campaign was launched at the same time and more than 1,000 signatures were collected before the end of the Governing Body session in March.

20. But within the March PFAC<sup>29</sup>, only the staff representative evoked difficulties for SMR coming from HR issues such as the not-agreed-upon amendments to the staff regulations. Finally, the amendments proposed were not discussed during that session of the GB, a result that the SU explains as being the outcome of staff mobilization.

21. During the March 2009 session<sup>30</sup> on the issue of recruitment and selection, the Chair of the ILO SU referred to the conclusions taken by the Review Panel and the Joint Advisory Appeals Board, seen as favourable to the SU position<sup>31</sup>. On the issue of communications means, he recalled “very clear guidance” of the (ILO) **Committee on Freedom of Association** on the matter<sup>32</sup>. He evoked the serious concerns that the above-mentioned original amendments were raising among the staff, coming forward “without having been negotiated, and absent of any substantive dialogue over the Office’s proposals and the Union’s counter proposals”. He concluded on the past difficulties and the present “deadlock” of SMR in ILO, which are in contradiction with the principles and values on which the ILO was founded, including freedom of expression – and the duty to bargain in good faith. However, he felt encouraged by recent

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<sup>27</sup> <http://www.ilo.org/public/english/staffun/info/bulletin/1393-a.pdf>

<sup>28</sup> <http://www.ilo.org/public/english/staffun/info/bulletin/1394-a.pdf>

<sup>29</sup> GB/304/8/2, appendix I

<sup>30</sup> GB/304/8/2, appendix I

<sup>31</sup> The Panel had concluded – unanimously and unambiguously – that the “unilateral modifications were in breach of the collective agreement and of Annex I of the Staff Regulations”.

<sup>32</sup> See the Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO (5th edition): para. 166 states: “The publication and distribution of news and information of general or special interest to trade unions and their members constitutes a legitimate trade union activity and the application of measures designed to control publication and means of information may involve serious interference by administrative authorities with this activity”

steps taken by both sides and welcomed “these open doors, and the flexibility shown by the members of the Governing Body in allowing the two sides to initiate discussions”.<sup>33</sup>

22. The Staff Union complained that its email broadcast had been censored when attempting to send a Bulletin<sup>34</sup> addressing the issues of the recruitment and selection system: the Office had – allegedly – withdrawn a communications facility which had been in place for many years. A resolution<sup>35</sup> of the Second Session of the 2009 AGM denounced the censorship, and called on the Staff Union Committee to “*organize all actions which it deems necessary in order to ensure respect for the principles of freedom of association and freedom of expression within the ILO*” and to prevent all new attempts at censorship. When meeting the Inspector in 2012, the management denied any kind of censorship on the communications of the ILO SU but claimed that the use of the ILO logo on SU documents was illegal.

23. In November 2009, the GB discussed a **proposed new 2010-2015 HR strategy** (HRS) where a consulted-upon<sup>36</sup> result-based management had replaced the “partnership approach” of the previous HRS as a focus, without a shared analysis of the latter, to the regret of several representatives. For the Group of workers, the document concentrated too much on the partnership with management, whereas it should also reach out to staff. In addition, the document focused mainly on professional and management-level staff, without sufficiently taking account of support staff. Another concern of the Group was how to integrate ILO values such as freedom of association, collective bargaining and industrial relations into recruitment and training policies. The speaker recalled **the unique capacity of the ILO to bring those values to the United Nations system**. The implementation of the **field structure review** would have an enormous impact on staff, a preoccupation shared by the Group of employers, who observed that decentralization of the Office raised the issue of aligning HR policy in the field, as well as RBM and reporting policies, and expressed concern about the culture of conflict referred to in the Strategy, stating that overcoming this required a culture change in the Office.<sup>37</sup>

24. The SR provided an analysis of the proposed HRS and found in it few reassuring aspects for the staff, and in particular staff serving in the field, where he claimed to have made many attempts to discuss policy solutions for those offices undergoing restructuring, with limited success. He pointed to the fact that the CA on recruitment and selection issues had been subject to unilateral changes which, in the opinion of not only the Staff Union but also the independent internal dispute resolution mechanisms, were not in line with the Staff Regulations or Collective Agreement. He insisted that, in order to respect the ILO’s own values, such changes should have been introduced through negotiation. He claimed that there is an “unwillingness to recognize the need to negotiate, in the face of clear, objective and impartial advice”, – an allusion to the Review Panel and JAAB positions – and explained “that the Union felt it had no other choice than to suspend the negotiations.”<sup>38</sup>

25. The report of the PFAC under paragraph 48 reflects the response of the ILO Director-General to the statement made by the staff representative, and the concerns raised by the members of the Governing-Body: “Referring to the various comments made during the

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<sup>33</sup> GB/304/8/2, appendix I, p8

<sup>34</sup> <http://www.ilo.org/public/french/staffun/info/bulletin/1401-f.pdf>

<sup>35</sup> [http://www.ilo.org/public/english/staffun/info/resolutions/r\\_99.pdf](http://www.ilo.org/public/english/staffun/info/resolutions/r_99.pdf)

<sup>36</sup> GB.306/9/2 (Rev.1) para. 4 and appendix I.

<sup>37</sup> Ibid, para. 7, 8, 10, 18, 22.

<sup>38</sup> Ibid, appendix (p14).

discussion on the culture of conflict, the Director-General stressed his profound belief in social dialogue and the values of the Organization. One of the first measures he had introduced after his appointment in 1999 was collective bargaining as the main means of determining conditions of service in the Office. The ILO, since then, had been operating on that basis, bringing about a series of reforms, and he remained convinced that the right choice had been made. However, if the current CA on recruitment and selection proved to be an obstacle to moving forward on the important and urgent reforms required to meet the mandate conferred upon the Organization by the Declaration on Social Justice for a Fair Globalization, the Global Jobs Pact and the G20 statement, it may be necessary to consider whether it was still compatible with those demands. He hoped that constructive and respectful dialogue would resume in the Joint Negotiating Committee on those issues, in order to meet the ambitious objectives of the HR Strategy and, through it, the challenges facing the Organization.” From para. 48 of the report, the Director General only seemed on the verge of questioning the relevance of his past openness to collective bargaining.<sup>39</sup>

26. Many speakers noted the deterioration of the industrial relations environment in the ILO, and some referred to a “Siberian” climate predominating in labour–management relations, calling for a return to good-faith negotiations. Others referred to the “conflict culture” in the Office, which stood in the way of a successful implementation of the Human Resources Strategy. They encouraged all stakeholders, including our Union, to engage constructively to find a way out of these difficulties.

### C. 2010

27. At the March 2010 PFAC, the President of the ILO SU claimed<sup>40</sup> that the Union had taken the initiative to propose a “road map” to relaunching good-faith dialogue within the Office. As part of it, in an effort to calm the situation and to promote a culture of conflict prevention, the Union committed to respecting a ceasefire. The Union welcomed the decision of the Director-General to request the intervention of the Executive Director of the Social Protection Sector **with a view to mediate the conflict to re-build confidence** between the Union and the Administration. Discussions began on a variety of topics, from recruitment and selection to field restructuring, but throughout the course of the mediation, a series of problems arose “*from actions taken, in the SU view, by the management, without previous consultations with the Union, including instructions sent to line managers via informal email only, forbidding them to “rank candidates”, effectively turning what had previously been merit-based competitions into direct selections.*”

28. The Chair of the ILO SU (fully reflected in the appendix of this organ’s report<sup>41</sup>) went on making a desperate assessment of the current SMR situation, illustrated by examples, and reaffirmed the SU determination not to “accept unilateral changes to practices and rules, in the complete absence of negotiations or good faith consultations”, summarizing: “*If something is not working, change must be negotiated, not imposed.*”(…) *We are forced into a situation where the starting point is distrust. We begin in confrontation.*” The speaker opposed this situation to the only other liable way out: dialogue. “*We commit ourselves to returning to a culture of conflict prevention. What we ask is that the Administration does not put us in a situation where we are obliged to react – to fight. Because the day we relinquish this duty, to*

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<sup>39</sup> <http://www.ilo.org/public/english/staffun/info/bulletin/1403-a.pdf>

<sup>40</sup> GB.307/9/2(Rev), Appendix I.

<sup>41</sup> GB.307/9/2(Rev. 1) Appendix.

*negotiate where possible, and to act with strength when forced, is the day we cease being a union worthy of this name.”*

29. In striking contrast, the HRD Director was reassuring the GB members: “With respect to social dialogue within the Office, the Director indicated that the existence of some areas of disagreement with the Staff Union had not been an obstacle to the Administration’s engagement in day-to-day dialogue with staff representatives, both at headquarters and in the regions, concerning all areas of the work of the Department, including recruitment and selection, the field structure review, work–life balance initiatives and contracts policy.”<sup>42</sup>

30. Just prior to the Extraordinary General Meeting (EGM) scheduled for May 2010, the Office and the Union reached an *interim “May agreement”* which, while not re-instating rankings as such, ensured that the most qualified/preferred candidate would be clearly indicated in the competition file. It also clearly stated that any issues which arose in relation to recruitment and selection procedures, which were covered by the CA or the Staff Regulations, would be *a priori* addressed by the SU. But, according to the SU, in the very first following competition (for a socially quite sensitive post), the competition file gave no indication of the most qualified person for the position. The Union’s proposal to resolve this through an interim agreement was rejected by management, without further counterproposal.

31. Based on these facts and perceptions, the Second Session of the 2010 Annual General Meeting, which included for the first time the participation of staff representatives from many ILO duty stations, mandated the SU Committee to:

- Reject the Administration’s proposal to accept its previous decisions on the matter as a prerequisite for negotiating a new CA on a Procedure for Recruitment and Selection;
- Mandate the SU Committee to organize a global action during the next session of the GB on defence of freedom of association and collective bargaining, and on the issues of recruitment, selection and job classification;
- Request the SU Committee to prepare a series of legal grievances with a view to launching collective appeals.<sup>43</sup>

32. **November 2010 marked the peak of the crisis:** according to SU source confirmed by the press and other witnesses, a global Union mobilization<sup>44</sup> took place with more than 500 staff participating in an EGM at HQ, and even more joining a work stoppage/picket line which resulted in a session of the GB being cancelled and delayed by one day. It was also reported that hundreds more staff members in the field offices across the globe joined the action.

33. Speaking on behalf of the Workers group, Sir Roy recalled its warnings made 7 months earlier, about a possible industrial action in case of a worsening situation, the necessity of mutually acceptable solutions to be found by the Director General and the SU before the GB could complete its deliberations on changes in the Staff regulations, its satisfaction to see a tentative mediation take place and frustration with the absence of an agenda item and report to

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<sup>42</sup> Ibid, para. 22.

<sup>43</sup> From “How we Got Here – What it means for you?” (chronology for Union Members) by the SU.

<sup>44</sup> <https://picasaweb.google.com/100302330467593321134/GlobalDayOfAction#>

the GB on the fate of such efforts, finally wondering “*whether the views of the Governing Body were marginalized.*”<sup>45</sup>

34. Hereafter are summarized the three paras. 241, 242 and 246 of the PFAC report (GB 309/11(Rev)) reflecting the statements of the Director of HRD. She expressed regret and serious concern about the action, saw a failure in certain areas of the mechanisms and procedures in place to manage SMR, reiterated the administration’s commitment to good faith dialogue and assured the Committee of the seriousness of efforts made and of their intention to continue to resolve differences. But these were fundamental elements and have not proved amenable to resolution through the normal channels of dialogue. The administration was stretched between the implementation of the HR strategy, requiring change and improvement on one hand, and on the other hand the operation of *the established processes of dialogue with the Staff Union and, in particular, with a ten-year old collective agreement.*” The Director promised to redouble efforts, but they had to be matched by the Administration’s partners. *She then addressed the following questions:*

■ *Had management breached collective agreements? The suggestions were of “breaching collective agreements” related to operational adjustments introduced with the recruitment, assignment and placement system (RAPS) in 2008, and which were intended to increase cost effectiveness and to raise competitiveness.*

■ *Had management stopped social dialogue? The management had never left the negotiating table. In fact, there were many areas where management and the Staff Union continued to work well together, including in a number of joint bodies.*

■ *Had management followed the Committee’s request to seek a solution to improve the negotiation climate? After the Governing Body’s request in November 2009, the Office and the Staff Union had attempted to conclude a road map for negotiations with the assistance of an external third party. However, no agreement could be reached on the identification of such a third party. The Director-General had then proposed, in March 2010, a mediation process with the assistance of a member of senior management agreeable to the Staff Union. As a result of that process, dialogue had been resumed on the issue of recruitment and selection. Five meetings had been held in the course of this summer, until the Staff Union had decided to withdraw again from the negotiations in late October 2010.*

35. *Sir Roy, speaking on behalf of the Workers’ group, [...] called upon the Chairperson, in the absence of the Director-General, to speak to management and report back to the PFAC on what would be done to resolve the situation before the following week.*

36. On 17 November, the Director-General sent a letter to the Union, recognizing the importance of long-unresolved matters, and from “last week events” the necessity to explore new avenues for their resolution as a matter of urgency, announcing in a spirit of constructive goodwill and proposing that the Union and management agree to have recourse to a process of external independent mediation as a way forward through the current impasse. The letter set out, in general terms, the areas where the Union’s demands would be immediately addressed (communications by SU, Legal Adviser, and rules of selection) and confirmed that all other issues be subject to an independent intervention by an agreed reputable institution specialized

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<sup>45</sup> GB.309/11/(Rev.), paras. 3 to 5.

in the processes of mediation, arbitration and conciliation, particularly with the public sector, suggesting a tight framework enabling them to report to the Governing body at its 310<sup>th</sup> session.

#### **D. 2011**

37. The search for a suitable institution to provide mediation services had started in November 2010, in joint collaboration between the Office and the Staff Union. Both agreed that the Directorate-General for Collective Labour Relations of the Ministry of Labour of Belgium would be called on to conduct the mediation process. The participants to the March 2011 session of the GB expressed satisfaction, encouragements and hope for its success.<sup>46</sup> Four joint mediation sessions had taken place, in February, March, May and October 2011.

38. The progress observed was, however, followed by the disappointing absence of final agreement in time for the November session of the GB. The process had been launched on issues around recruitment and selection. Additional areas of priority had been identified as: (i) clarification of the scope of collective bargaining in the ILO, including a better definition of areas that fell under negotiation, consultation and information; (ii) a review of the contract types and policies; and (iii) the classification of positions.

39. The representative of the Director General was pleased to report that the basic principles for an overall review of recruitment and selection procedures had been agreed with the Staff Union and that both sides had witnessed advancements with a view to finding workable solutions. However as explained by her and reflected in paras. 167 to 173 of the draft Report GB.312/PFA/PR, progress in the mediation had faltered over one remaining difference between the parties: the use of external assessors in the recruitment process.

40. The staff representative explained, for his part, that in the middle of the mediation, the Office published – absent of any consultation or negotiation – a policy governing external collaborators. These are independent consultants, or what Recommendation No. 198 calls self-employed workers. For the ILO SU,<sup>47</sup> *“this new policy is in direct contradiction with some of the key elements of the Employment Relationship Recommendation, in particular in respect of the criteria to be used for the determination of the existence of an employment relationship. Its hasty publication, the unwillingness by management to suspend its application pending the outcome of good-faith negotiations, as they believe there is no duty to bargain or even consult over the subject, has raised questions among the staff as to whether there is a genuine willingness to end precarious work in the Office.”*

41. Thus, the GB was uncomfortable to take position in a conflict between managerial requirements of a swift recruitment process and the rule of law. Meanwhile, the mediation work continued.

#### **E. 2012**

42. After the period under review, in March 2012, the issue of the respective roles of the Governing Body, the Director-General and the Staff Union in the determination of HR policies

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<sup>46</sup> GB.310\_10\_2 Rev 2 in particular Progress report on the proposals contained in the Director-General’s letter of 17 November 2010 to the Chairperson of the Staff Union Committee and Statement of the Staff representative in appendix.

<sup>47</sup> GB.312/PFA/PR, Appendix.

and conditions of service was again discussed, without reaching any conclusion, in the context of the implementation of the preliminary results of the mediation process initiated in November 2010. The Director-General submitted to the GB, through its Officers, a set of interim amendments and adjustments to the Staff Regulations in the area of recruitment and selection. These interim amendments and adjustments had been agreed upon between the Administration and the Staff Union in the context of the mediation process initiated in 2011, as a first step in the comprehensive review of the 2000 Collective Agreement on a Procedure for Recruitment and Selection.<sup>48</sup> (See GB 316/PFA/9 dated September 2012 for details and the decision taken).

43. In March 2013, the GB was faced with a similar situation: the Group of Employers proposed an amended point for decision, supported by the workers and various governments. The GB requested the Director-General to provide its 320th Session (March 2014) with proposals to reform recruitment and selection procedures, taking into account the views already expressed by the GB with respect to transparency in recruitment processes, as well as a complete proposal regarding policies and practices in all areas of the Director-General's human resource reform, taking into account the aspirations of under-represented regions so as to reflect an equitable geographical balance. If these proposals were not presented at that time, the interim arrangements would be discontinued and former practices would be reinstated.

#### **F. Assessed Quality of SMR for the period under review**

44. The 2010 developments gave a fortunately rare example within the United Nations organizations of the recent use of "*means of direct action*" (which include petitions, demonstrations, strikes, slow-downs/work-to-rule) in addition to the United Nations Relief and Work Agency (UNRWA) case mentioned in JIU/REP/2011/10. According to ILO management, "*the rules and regulations of the Office do not name any specific measures of direct action. In practice, action taken by the SU has inter alia included the following: open letters, bulletins, newsletters, strikes; demonstrations; blockades, public media, including social networks and social media sites. There are no limitations on the lawful exercise of direct action by the Union, up to and including strike action. This right has been recognized by the ILO Administrative Tribunal, and is guaranteed by the relevant International Labour Standards and general principles of law.*" According to the SU, strikes occurred at ILO at the following dates: 8 March 1962, 1 March 1972, 29 November 1974 (inter-agency), 1 March 1984, 19 February 1987, 1 June 1990, 15-16 November 1990 and 10 November 2010.

45. There have been improvements in SMR following the 2010 crisis. ILO SU noted that it would have rated SMR quality as being in "crisis" until the end of 2010 and "poor/challenging" for 2011. However, in its April 2012 reply to the JIU questionnaire, "*following a period of mediation, and more importantly changes in the Human Resources Management leadership, there has been a considerable change in climate which [they] hope will produce positive results.*" As a result, the final rating given was "average" – an assessment coinciding with the management reply to the same question dated 16 September 2011.

46. More precisely, the ILO SU rated consultation processes as "average", while rating **communication/information** (both with management and MS) and **negotiation** processes as "poor/challenging." Management, for its part, considers information/communication processes as "good" at the HQ-level, and only "average" in the field offices; **consultation** quality is rated

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<sup>48</sup> GB.317/PFA/10, para. 7, as amended by the Governing Body.

as “average” while **negotiation** processes (occurring only at HQ) are rated as “poor/challenging.”

47. In terms of agreements – a good indicator of SMR quality – few were reached during the difficult 2008-2010 period: they addressed flexible working arrangements (teleworking) and administration of sick leave (over five years of negotiations).

## International Maritime Organization (IMO) (2009-2011)

### A. SMR quality

1. In the IMO, both the management and the staff representative body (SRB) termed SMR quality as “excellent”.<sup>49</sup>

### B. Theory

2. Compared to the similar texts in force in other United Nations system organizations, IMO Staff Regulations are among the most restrictive in terms of staff participation in decision-making. In addition to formally giving only an advisory role to SRs, as made clear by Regulations 8.1 and Rule 108.1(b) and (c), which is not unusual, regulation 8.2 restricts this role to “*such proposals as the Secretary-General may desire for amendment of staff regulations and staff rules and related administrative practices*”. Additionally, Staff Rule 108.1 (c) does not mention anywhere that the relevant drafts should be provided to the staff committee “*in advance*”, as indicated in the corresponding text for the United Nations, to ensure a minimal time for consultations with the staff at large and among partners. The notion of “*continuous contact between staff members and the Secretary-General*” appears as a rule (108.1 (a)), not as a regulation as at the United Nations.

### C. Practice

3. It is reassuring, however, that in practice, according to the management, “*all policies, rules and circulars are cleared in advance with IMO’s Staff Committee and almost always these circulars are drafted after extensive consultation with the staff.*” The Inspector appreciates such a situation. In the absence of an effective Staff-Management Committee, it was noted by the management that its strategy in terms of human resources was to conduct focus groups with SRs so that each proposal undertaken is done within the focus groups, with intense participation of the staff. Management stated that the communication channels were wide open and that, perhaps, this is why it had been so successful in implementing policies with minimum resistance.

4. Management pointed to several examples in this regard, including the reform of the internal justice system, the establishment of the harassment prevention policy and the policy on hiring people with disabilities. Many agreements were recognized and became binding when approved by the SG. Management added that the outcomes of staff consultations could also lead to policy changes. When that was the case, new policies were communicated to all staff. In addition, the Staff Committee issued minutes of the meetings with the Administration to all staff. Subsequently, the management rated the quality of negotiations as “excellent”. In practice, according to the management, there was plenty of communication both upstream and downstream, and in the past there has never been a divergence between the recommendations of the consultative processes and the final decision of the SG.

5. According to HR, staff-at-large and SRs can write directly to the IMO SG, Director of Administration or HR Head to express concerns on any given issue. However, the main joint body, the IMO Staff Management Committee (SMC), does not meet, for reasons that have not been made clear to the JIU. As such, substantive issues impacting upon staff welfare are

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<sup>49</sup> In a first reply to the JIU questionnaire, the SA had indicated “average”, contrasting with **communication, consultation, negotiation and transparency rated as good**; as a result, the management had questioned the methodology of such a survey. When receiving the draft specifics about IMO, the IMO SA qualified the SMR as excellent, as did the management.

deliberated via the focus groups rather than the IMO SMC, which should serve as the formal platform for such discussions.

#### **D. Best Practice: Tripartite Classification Committee**

6. Following training for several members of administration and staff on the classification methodology and the new master standard, a Classification Committee (CC) was established which meets every six months. It is composed of one member appointed by the administration, one member appointed by the staff and a consultant – an expert specializing in issues of classification. The CC’s recommendations go to the SG for approval and have been approved to date.

#### **E. Staff Union Statute**

7. A useful feature of the SU statute is that if the Executive Committee cannot unanimously agree on an issue, *“the Committee shall submit recommendations, together with any dissenting opinions whose submission has been requested by individual members, to the Secretary-General.”*

#### **F. Training**

8. Following a management evaluation survey conducted in 2010 (geared exclusively towards managerial leadership), the HR Service staff development catalogue (2011) offered – in addition to pre-existing modules such as “teamwork” or “win-win negotiations” – a number of new training courses, including “meeting and facilitation skills”, “the art of listening”, “offering constructive feedback”, “leadership development”, “dealing with challenging people and situations” and “interpersonal skills”, all of which would be relevant and useful for the management and staff representatives. The SU has also called for more training on SMR to be jointly set up by SRs and MRs. Nonetheless, the IMO training budget is limited, amounting to £87,000 per year for all kinds of training to 300 staff members.

## International Trade Centre (ITC) (2009-2013)

### A. Size and representation of the staff

1. ITC was established as the General Agreement on Tariffs and Trade (GATT) International Trade Centre in 1964 to provide trade promotion advisory services. In 1967, with the encouragement of the United Nations Secretariat to develop a system-wide export promotion programme, UNCTAD and the GATT proposed a joint GATT/UNCTAD centre, which, after endorsement by the United Nations General Assembly, became a common initiative in January 1968<sup>50</sup>. Since then, the ITC is under the double authority of the United Nations through UNCTAD and successively the GATT and the World Trade Organization (WTO). It has been the focal point within the United Nations system for trade-related technical assistance.

2. By virtue of the authority granted by the United Nations Secretary-General or on his behalf,<sup>51</sup> the staff members of ITC are appointed by its Executive Director (ED) for service limited to ITC, and they are administered under the United Nations Staff Regulations and Rules (SRRs), by or on behalf of the ED, with the exception of matters specifically reserved to the United Nations Secretary-General and other competent United Nations officials. In particular, as stated in the 1992 United Nations letter on Delegation of Authority to ITC, “...all administrative issuances issued directly by the Secretary-General under the symbol ST/SGB – and those that prescribe instructions and procedures to implement them, under symbols ST/AI/-, ST/IC/- and PD/-, would normally apply to ITC staff, unless the subject matter is irrelevant to ITC”. They “would therefore govern the terms and conditions of service of the ITC Staff”.

3. During the period under review (2009-2011), the number of staff members was 269<sup>52</sup>, of whom 265 were headquarters-based. 50-60 people were working in ITC as “non-staff”: interns and short-term employees. In the opinion of the Inspector<sup>53</sup>, the ITC Staff Association enjoys one of the best staff representative body (SRB) statutes, in particular for its democratic governance. If the ITC really is a self-administered agency, its Staff Council (SC), as a full-fledged SRB under the United Nations SRRs, should be invited as an autonomous participant to the United Nations Staff Management Committee (SMC), as well as its Chief of HR. However, in the past, the ITC SC and the United Nations SMC seemed to have been unaware of each other’s existence.<sup>54</sup> In the last years, some collaboration took place with the UNOG Staff Coordinating Council, and many of the ITC’s staff members, in addition to holding their internal elections in ITC, voted in the UNOG SCC elections, where an ITC SC member was elected in 2013. For the Inspector, despite the fact that ITC is an autonomous specialized agency with its Executive Head sitting on the Chief Executive Board, its staff, submitted to the United Nations Staff Regulations and Rules, should be considered as an associated member in

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<sup>50</sup> Browne, Stephen and Sam Laird. The International Trade Centre: Export impact for good. ed. Thomas G. Weiss and Rorden Wilkinson, Routledge Global Institutions Series no. 53. Oxford: Taylor & Francis Group, 2011.

<sup>51</sup> Letters of Delegation of Authority (DoA) dated 23 April 1981, 28 January 1992 and 29 February 2000

<sup>52</sup> As per the ITC website (accessed July 2013), there were 277 staff members as of 31-12-2009 as well as 541 (real) consultants; according to ITC management, “ITC is one of the organizations which uses consultants in their true sense of “individual external contractors” and are not part of ITC’s permanent labour force.”

<sup>53</sup> ITC/SA/90: Statutes of the ITC Staff Association, Geneva, 5 December 1996.

<sup>54</sup> See JIU/REP/2011/10, Chapter II.

the SMC<sup>55</sup>, but this is already touching the difficult question of the institutional nature of the ITC and the Delegation of Authority (DoA) that it enjoys from the United Nations Secretariat.

### **B. The interpretation of the delegation of authority by the United Nations was central to many SMR issues**

4. Most expressions of disagreement by the ITC SC with the ED position were based on the fact that the latter cannot make decisions contrary to the United Nations Staff Regulations and Rules (SRR) in force, as for the ITC, he/she belongs to the United Nations Secretariat and is one of the Senior Managers appointed by the Secretary-General and, therefore, has the *responsibility for ensuring full implementation of the relevant regulations and rules of the United Nations and related administrative instructions.*<sup>56</sup> This raises the central question of the rule of law: hence, the interpretation of the delegation of authority (DOA) by the United Nations to the ITC was central to many SMR issues.

5. The Inspector believes that United Nations SRRs are applicable by ITC management to ITC staff. The only differences are technical ones and concern personnel actions where SRRs were to be made specific to the ITC, because of its hybrid nature, with the provision of 50 per cent of its regular budget by WTO, and the specificity of its mission to help the trade of developing countries, compared to the broad mission of the United Nations Organization and its special status. Consequently, some United Nations issuances do not apply to ITC staff – for instance, for the functions of recruitment, placement and mobility. Hence, the DOA allows for specific mechanisms to be established through the Joint Appointment and Promotion Board, where WTO and UNCTAD representatives do sit together.

6. Some administrative instructions are to be adjusted to the special needs and requirements of ITC, provided that its staff is consulted while fully observing the United Nations SRRs. Having seen the changes proposed by the ED to the ITC draft recruitment and selection policy, the Deputy Secretary-General of UNCTAD noted the ED's willingness to extend her powers, and observed in a letter dated 22 April 2010 that those changes were calling for an increased Delegation of Authority to ITC in matters pertaining to recruitment and selection, and that they *"might, of course, require authorization by the appropriate organs of the United Nations and by the World Trade Organization."*

### **C. At the root of the SMR issues: the selection and recruitment policy, part of a confused change management process**

7. A staff survey, considered by OIOS *as a tool used at the planning stage of audits, to assist in scoping the audit*, hence *"not part of the audit"*<sup>57</sup>, was launched by OIOS. Its very revealing content was officially made public by the ITC management, only after another staff survey had been held in 2012 under its own responsibility and with the use of a private firm. In 2009, in response to the statement *"the present Governance structure of ITC supports transparency and accountability"*, only one out of 137 respondents "strongly agreed", 24 "agreed", 47 "disagreed", 47 "strongly disagreed" and 18 "did not know". Another result directly reflecting

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<sup>55</sup> The ITC SC was neither invited to the first and second meetings of the Staff Management Committee (SMC) nor to the annual meetings of the former Staff Management Coordination Committee between 1980 and 2011.

<sup>56</sup> A/64/640 <sup>56</sup> "Towards an accountability system in the United Nations Secretariat", section E (paras. 42-44).

<sup>57</sup> OIOS message to the Inspector (1-10-2013).

the state of the SMR was provided by the response to the following statement: “*ITC’s staff can easily communicate with senior management*”. This was “strongly agreed” with by only 4 out of 138 respondents, “agreed” with by 26, “disagreed” with by 30, “strongly disagreed” with by 67, and an opinion could not be collected from 11 of them. It is noticeable that, according to this survey, 80 per cent of the staff considered that they *had not* been involved in achieving the objectives of the change; 77 per cent felt that management *had not* been receptive to their suggestions to enhance productivity and efficiency; 73 per cent considered that proper training was *not* provided; and 70 per cent thought that staff communication with management was *difficult*.

8. The Inspector strongly regrets that the seriousness of some HR management issues, detected in 2009 through, inter alia, the OIOS staff survey, had not triggered a separate audit or investigations on those HR issues at the time of the worst tensions between the SC and the then-ED. He can only, therefore, point to a number of contradictions between the rules in force and the ED’s practice, and explain them by the “too personal” views, wishes and style demonstrated by the ED when performing her management changes. It is unquestionable that SMR, within the ITC, have been in turmoil from 2007 to the end of May 2013. This crisis is well documented in a “position paper” made public by the Staff Council on 22 April 2010, which focuses on the selection and recruitment policy or, rather, the difference stated by the SC, between a “de facto policy” applied by the management and termed as “illegal” and the official policy contained in promulgated texts, which should, according to the same source, have been effectively in force. To summarize a long and complex story of mutual mistrust, and leaving aside many exchanges of messages, accusations and counter-accusations, threats, discriminations and contested personnel actions (carefully documented by the Inspector), the following facts can be reported:

9. The selection and recruitment policy, established on the recommendation of the Joint Appointments and Promotion Board in 1995<sup>58</sup>, was based on a proposal made to the then-ED by the Joint Advisory Committee (JAC), taking into account the latest Placement and Promotion System introduced in the United Nations. For the SC such policy should have remained in force until a new selection policy was promulgated, as agreed by the joint bodies and confirmed by the then-ED<sup>59</sup> and the management in their official communications.<sup>60</sup> Indeed, a new ITC recruitment and promotion policy had been prepared since April 2005 by the JAC. “*During 14 meetings in the course of 2006, the JAC finalized a draft administrative instruction “Staff Selection System” and Executive Director Bulletin “Selection review bodies”*”<sup>61</sup> to reflect, in ITC, the changes adopted by the United Nations in 2002.<sup>62</sup> This draft was approved by the “parent bodies” (UNCTAD and WTO), the Staff Council and the then Executive Director; however, the latter left ITC before the promulgation of this new draft policy, based on the policies promulgated in 1995 and 2002 by the United Nations, which were devoting some guarantees/priorities to internal candidates, in an area where experience counts. For example, according to this draft policy, vacant posts were to be internally advertised for the first 15 days, after which – if no suitable internal candidate could be identified – the post would be opened up to all candidates.

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<sup>58</sup> ITC/OED/INF/489, Personnel Policy Guidelines and Practices: Part I: Professional Category series 100 (11 April 1995); Part II: General Service Staff Category (9 June 1995).

<sup>59</sup> Memorandum to the JAC Chair of 5 February 2008.

<sup>60</sup> Information Circular ITC/IC/2008/08 (11 February 2008).

<sup>61</sup> ITC/IC/2010/57 Report of the JAC.

<sup>62</sup> ST/SGB/2002/1 on Series 100 (Staff rules 100.1 to 112.8), ST/SGB/2002/4 on Staff Selection System, ST/SGB/2002/6 on Central Review Bodies.

10. The newly appointed ED, while formally affirming the application of the 1995 policy in an Information Circular of the Director, Division of Programme Support (DPS)<sup>63</sup> and later through an ED Bulletin, was applying a new, not officially promulgated draft policy of her own, before any new policy on those matters had yet been approved within the United Nations, not to mention the absence of agreement with the ITC staff representatives. Until 2011, the above-mentioned (para. 9) agreed draft texts were not published, on the grounds that they did not incorporate all the relevant changes that had taken place in the United Nations in recent times with regards to recruitment and selection, and would thus need to be revised.

11. The personnel actions, while presented by the ED as elements of the change management process, were resented by many staff and senior staff as not only unfair but as particularly damageable for the efficiency of ITC itself, and hence conducive to SMR tensions. The question of the proportion of internal candidates promoted to management positions was at the heart of SMR difficulties, with each side presenting quite different statistics to support its own point of view. According to SC, since 2006, only one out of the seven recruitments made at the senior management (D1 and D2 levels) went to an ITC career staff, i.e. a candidate with some seniority in years of service in the ITC. The management, using a different (non-UN) definition of internal candidates (those with only 6 months of ITC service) stated that between 1 January 2007 and 30 June 2012, a total number of 31 management (i.e. P5 and above) vacancies were filled with 13 of them (42 per cent) filled by internal candidates. The ITS SC communicated to the Inspector a number of well documented and troubling personnel actions decided by the ED herself and considered particularly inappropriate by the SC.

12. According to the SC, from 2007 to 2009, the selection and recruitment policy was continuously updated by management (through many versions). While the SC was sometimes consulted, it had never agreed on the “de facto policy” applied by the management, which had never been finalized or promulgated. The SC’s main concern pointed to the discrepancy between the personnel policy guidelines and practices of 1995 and the de facto policies, to the point that the SC termed them as “illegal” the de facto policy arbitrarily applied by management without having been promulgated. The Inspector did not receive any explanations or comment from the ITC management on this major point of contention, either before or after the issuance of the draft report. The SC resented the fact that a number of posts were re-profiled, related vacancy announcements issued and corresponding recruitments made since 2007, without a valid legal framework.

13. As of 5 November 2008, at the recommendation of a new Chief HR (appointed at ITC in February 2008), an ITC Competency Framework (ITC/IC/2008/40) was issued to formalize the competencies required at ITC. It officially “*establishes the personal and management competency requirements of staff at the various levels of the organization and provides a framework, or core Human Resources activities, including recruitment, staff appraisal and career development*”. The SC stressed that the finalization and issuance of that competency framework had taken place **after** the post re-profiling and recruitment exercise, whilst logically it should have been its basis for informing the personnel actions and HR practices. The Inspector welcomes this framework as an injection of clarity and possible fairness in the personnel actions.

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<sup>63</sup> ITC/IC/2008/08: §2 stated *inter alia*: “Until such a review has been completed the current recruitment policies (ref: ITC/OED/INF/489 Personnel Policy Guidelines and Practices) continue to be effective (*mutatis mutandis*).

14. The text was also a response to the growing concerns and staff demoralization as expressed by the SC's Brief to management of 25 October 2008. In its response of 20 November 2008, the management had committed itself "as a matter of priority" to introducing a promotion process to ensure that deserving staff are allowed to progress without necessarily having to go through a competitive selection process with external candidates<sup>64</sup>. For the management, as stated in its response of 20 November 2008, "HR was [only] to look into the *feasibility* of such a move". In its comment on the JIU draft specific note on ITC, the management observes that a non-competitive selection process would be in breach of both the spirit and the letter of United Nations SRRs, in particular Staff Regulation 4.3. This being the case, the Inspector wonders why, then, management made the afore-quoted commitment to the SC if they knew that what they were promising was not feasible, and at the risk of creating false expectations. He also observes that, on the basis of such an issue, many recruitments were contested by the SC between 2007 and 2011.

15. In June 2010, a "Provisional Recruitment and Selection policy" was promulgated<sup>65</sup> without the agreement of the SC, which subsequently wrote to United Nations OHRM, WTO and UNCTAD on this matter, addressing three main points: the use of the aforementioned "illegal" policy since 2007, discrepancies in the definition of "internal candidate"<sup>66</sup>, and the lack of attention to the United Nations principles such as multilingualism.<sup>67</sup> The ensuing discussions between ITC management and United Nations OHRM, UNCTAD and WTO were held behind closed doors and the SC received no reply to its above-mentioned letters.

16. Only three months after promulgating the "Provisional Recruitment and Selection Policy", i.e. on 2 September 2010, ITC management issued a "Revised Provisional Recruitment and Selection Policy" (revision 1) (ITC/EDB/2010/04/Rev.1) with a change in the definition of "internal candidate" addressing the discrepancies highlighted by the SC. Two months later, the ED issued the Bulletin of 16 November 2010 (ITC/ED/2010/8) clarifying the procedures for promulgation of the various administrative issuances, which superseded the ITC/EDB/2002/5 of 25 August 2002, unfortunately not followed in the previous years. A new "ITC Staff Selection System" (SSS policy, ITC/EDB/2011/02) was finally promulgated on 1 November 2011 and entered into force on 1 January 2012. Following its issuance and in line with standard United Nations system practices, the management noted that it could ideally integrate into it the career development and promotion policy, as promised in 2008. A joint HR/SC working group has been set up to review options regarding the career progression and succession planning at ITC. It met three times in 2012 but has not led to concrete conclusions, as the staff and their representatives, after waiting for nearly four years, had lost any hope and interest in this

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<sup>64</sup> The wording was the following: *With regard to promotion, as part of a formal 'People strategy', HR is working as a matter of priority to look at the feasibility of introducing a promotion policy which will ensure that any high-quality staff members are allowed to progress up the grade structure without necessarily having to apply to individual competitions.*

<sup>65</sup> ITC/EDB/2010/04 "Provisional Recruitment and Selection Policy" 03-06-2010.

<sup>66</sup> New policy: "Someone who worked at ITC for six months" vs. UN policy: "someone who was cleared by the competent joint body after a competitive process."

<sup>67</sup> A change in the ITC logo, decided without consultations by the ED and including the deletion of the French and Spanish versions, caused negative reactions among the staff, culminating in a Staff referendum on 14 April 2011, when 84 per cent of the 145 voters requested the reinstatement of the French and Spanish acronyms and that the ITC logo be modified to clearly and appropriately reflect (as it was before) the nature and scope of the organization as established in 1964.

approach. The JAC was routinely updated on the working group's progress. **D. Seriousness of the state of SMR at the ITC**

17. In 2008, three papers, among others, should have warned the management on the danger of their unilateral decisions. These papers were: an Aide-mémoire of a group gathering of all P5 professionals (February); a message of the Working Group on the Information Circular on the new organizational structure (March); and the above-mentioned SC brief to management (October). All these papers revealed a profound fracture in SMR, with accusations such as "...lack of transparency, insufficient and inconsistent communication to staff, lack of respect to staff, unsustainable situation..." or tough formulations such as "a high degree of irresponsibility and un-professionalism of senior management that is actually taking advantage of staff" or "the discriminatory approach proposed...(which) affects the staff morale and also productivity throughout ITC."

18. While many of the documents consulted by the Inspector were not focusing on SMR as such, they highlighted a number of **facts demonstrating an extraordinarily tense SMR situation** which, during the years under review (2009-2011), endangered the efficiency of the ITC itself. Among them, a **memorandum written by the SC on 26 July 2010 detailing 15 aspects of the alleged mismanagements of the ITC human resources by the ED.**<sup>68</sup>

19. In September 2012, the ITC management stated in one of its comments on the draft present specific note that "*it should be noted that since January 2008, current and former staff members have referred ITC Management decisions to the MEU or UNDT (or appropriate precursors) on 21 occasions. To date, ITC's position has been upheld by the relevant authority on each occasion. This is a superlative track record which clearly demonstrates that management decisions are appropriate, follow due process and are taken in accordance with UN Staff Rules and Regulations*" (Comment N° 20). Such self-congratulation does not take into account UNDT judgment n° 2012/027 of 16 February 2012. In a sooner-resolved matter, a contested January 2010 decision by the management was withdrawn in March of the same year, with the reinstatement in the post of the victim and the apologies of the ITC administration after the intervention of the MEU (which is not producing judgments, but assistance towards solutions).

#### **E. Necessary efforts to improve the situation**

20. In a significant acknowledgement of the United Nations responsibilities in the situation described in the 2010 letter mentioned above, the USG for Management committed herself "to look into systemic issues raised by ITC. These issues, notably, are similar to those raised by the SC, including in the areas of recruitment and staffing".<sup>69</sup>

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<sup>68</sup> HR actions and "policies" were not the only feeders of this overall atmosphere of bad SMR: such relations were particularly tense in the Division of Business and Institutional Support (DBIS), which accumulated six complaints of alleged misconduct against its Management. Out of such complaints, the only one which followed the formal resolution was concluded in March 2013, after three years of proceedings, with the confirmation of the allegations raised. As regards other formal litigations, ITC was condemned by a UNDT judgement n° 2013/055 of 20 March 2013 to the payment of CHF 8,000 for moral prejudice, and the additional payment of 12 months of the applicant's gross remuneration for unjust separation from service of a staff member. That judgment is quite revealing about the kind of HR and administrative actions made in the years 2011-2012.

<sup>69</sup> Letter dated 24 August 2010, from Angela Kane, USG for Management, United Nations, to the Chair, ITC SC.

21. Another initiative was launched to ease the serious SMR tensions: the mediation undertaken in December 2010, with the blessing of the ITC parent organizations, by the UNOG Ombudsman. This initiative was aimed at normalizing SMR and could have led to improvements, had it not been, according to the SC, for the inflexibility of the then-ED. She did not accept any of the eight proposals put forward by the SC, with most of them appearing, to the eyes of the Inspector, as very reasonable when put in their proper context.<sup>70</sup>

22. The aforementioned SMR tensions, which appeared in 2007 after a new Executive Director joined ITC, have eased a lot since early June 2013, when a new acting Executive Director was appointed and in September, when the newly appointed ED undertook much more constructive and positive relations with the staff and its representatives through various means, apparently with success. This confirms to the Inspector that the strained SMR (which had a normal course before 2007) had, from 2008 to mid-2013, **a strong personal component**.

**23. This was not the only occurrence observed by the Inspector in the United Nations system**, where, to avoid the repetition of such situations of conflict in the future, all key decision makers should actively refer to the recommendations contained in the JIU reports on “Selection and conditions of service of Executive Heads in the United Nations System Organizations” (JIU/REP/2009/8) and “Transparency in the selection and appointment of senior managers in the United Nations Secretariat” (JIU/REP/2011/2).

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<sup>70</sup> They were as follows:

1. “Review of the ITC recruitment carried out in the period 2007-2009 and determination of forms of compensation for staff penalized.
2. Transparency in the use of financial resources (GTF) related to job security (i.e. plans for new posts, how they fit in the organization, etc.).
3. Decision on a firm date for implementation of the promotion policy or for including elements of it in the new Recruitment and Selection policy.
4. Provide ITC staff with the results of the staff survey conducted by OIOS in 2009.
5. Investigate why rules for voluntary separation of staff were not applied consistently.
6. Conduct a review of involvement of CMP consultants, including communication consultants, their fees, TORs, and RB assessments.
7. Allow for a staff representative to participate as observer in the interview panels until the new recruitment and Selection policy is promulgated.
8. Establish a working group for the return of multiculturalism at ITC”.

## International Telecommunication Union (ITU) (2009- 2012)

### A. Size and representation of the staff and SMR legal framework

1. The Union labour force, according to its management, comprised as of September 2012 741 staff members holding regular contracts and some 80 staff members on short-term contracts (with variations according to the schedule of conferences and meetings). Special Service Agreement (SSA) holders do not contribute to Health and Pension schemes and are not represented by any staff representative body (SRB).

2. In the oldest of all the specialized organizations, there has been a tradition of social dialogue since at least the 1950s, with the creation of the ITU Staff Union, one of the founding members of the FICSA, and the use of a broad range of joint bodies scrupulously detailed in their institutional and legal aspects by the management in its response to the JIU questionnaire. In terms of legal framework, contrary to the obligations created for the United Nations SG by the United Nations Staff Regulation 8.1, the corresponding text in ITU uses only the passive voice: *“The Staff Council shall be consulted”*; it *“shall be entitled to make proposals to the Secretary-General on behalf of the staff regarding such questions”* (SR 8.1.1 b). Additionally, it states that the administrative issuances in these fields *“will be transmitted in advance to the Staff Council for consideration and comment before taking effect.”* (SR 8.1.1 c). Nothing suggests that they could be changed during such “consideration”.

3. Regulation 8.2 on the Joint Advisory Committee (JAC) stipulates that the SG *“may refer”* to the joint administrative machinery with staff participation that s/he would have established to advise him/her regarding personnel policies and general questions of staff welfare or any administrative matter which s/he may refer to, and to make to him such proposals **as it may be desired** for amendment of the Staff Regulations and/or Staff Rules. As a mere matter of comparison among intergovernmental organizations of the United Nations system, nowhere in the United Nations system is the principle of Staff-Management interaction so loosely envisaged. But the practice is that the JAC is systematically consulted, at least once a year. The SG also retains the power to approve the composition of the joint bodies, including for the staff side but he never went against the proposals made by the elected staff in this respect. Amendments to the Staff Regulations and Staff Rules are adopted by the Council of the Union where regulations are concerned, and by the SG in the case of rules.

4. Since 1994 in Kyoto, a Resolution 48, traditionally addressing human resources issues, was adopted by the four-year Conference of Plenipotentiaries in its present form and updated, as in Minneapolis and Marrakesh. In addition, in 1998, the Conference devoted Resolutions 51 to staff participation in ITU conferences, stating that *“it is important for the SC to be consulted by the Secretary-General before decisions of a general nature are taken concerning human resources management and working conditions at ITU, in accordance with Staff Rule 8.1.1.b.”* In June 2004, the Council –considering that according to the Regulation 8.1 of the Staff Regulations applicable to appointed staff, the staff’s right of association is recognized, along with the representation of the interests of the staff before the SG by a Staff Council” – decided *“to instruct the Secretary-General to immediately review the modalities of strengthening the dialogue between the SC and the Secretary-General or his designated representatives (...) and [to] prepare a progress report which could include the identification of the possible need for amendments to the Staff Regulations and Rules”* (Decision 517). In 2006, the Council established a tripartite Group *“to identify the prevailing problems in this regard with a view to*

*proposing options for satisfactory resolution of the matter.*"<sup>71</sup> In Antalya in 2006, the Plenipotentiary Conference of the ITU indicated, in an annex to its Resolution 48 on Human Resources Management and Development, the relations between management and the staff as being among the matters for reporting to the Council on staff and recruitment issues.

5. While the number of litigations is neither the sole nor the best indicator of the state of SMR, the Inspector considers that it is a relevant one and notes that between 2009 and 2011, the ILO Administrative Tribunal (ILOAT) pronounced 18 judgments on claims of staff members opposing ITU administration decisions. In seven instances, the Tribunal dismissed the claims. In one decision (judgment 2890), it imposed some duties but no payment upon the ITU. In ten decisions, the Tribunal condemned the ITU administration. Corresponding due payments of CHF 202,500 were made to compensate material and moral prejudices and CHF 54,750 for judicial costs, in addition to some years of salaries remaining due (sometimes with interest) and some reinstatements of civil servants in their post or an equivalent post. Some of those judgments have their roots in the high tension observed between staff and management. Those tensions had been exacerbated in 2009 by a personal electoral rivalry at the highest levels of both the Administration and the Staff Council.

## **B. SMR quality and the 2009-2010 crisis**

6. According to management, the SRB decided in 2009 to stop participating in JBAs such as the Appointment and Promotion Board (APB) and the Joint Advisory Committee (JAC). In response, some threats of unilateral meetings were pronounced by the administration. Meanwhile, the management chose not to answer the question about a possible crisis, which was in the JIU questionnaire. This one had been conceived for and addressed to all organizations under review.

7. The Inspector doubts that those features justify the qualification of SMR in the ITU as "good" or "excellent." However, for the period under review (2009-2011), the overall SMR quality was assessed as "poor/challenging" by the ITU Staff Union (SU) in March 2012, as "excellent" by the management in May 2012 and as "good" by the ITU Staff Council (SC) (May 2012).<sup>72</sup> As explained below, the ITU features a dual representation for its staff, with the additional specificity that a significant number of staff members belong to both of them.

8. One particular case has to be evoked with some details because of its lasting effects on the SMR at the ITU. On 15 September 2009, the SC published a communiqué ("Flash") informing the staff at large that a staff at GS 5 level had just been suspended from duty with immediate effect after 11 years of service, two months after having allegedly "*omitted to bring to the Director's attention an email message he was expecting*". The authors of the "flash" criticized the attitude of the SM hierarchy and insinuated that, behind such a futile reason, there was a linkage with the fact that the staff member in question was a member of the current SC. Ten days later, the Chief of the Administration and Finance Department, "*in order to ensure the protection of all staff members, informed the Chair of the SC that until further notice, all communications from the SC for general distribution should be submitted to him prior to their sending or distribution.*" After discussion by both parties, this ban was lifted on 13 October

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<sup>71</sup> Resolution 1253 (MOD) adopted at the extraordinary session of the Council, Antalya, November 2006.

<sup>72</sup> ITU-SC noted that it would have upgraded the rating to excellent if the process by which management issues administrative issuances and revises staff rules was not "unacceptably slow" – averaging 11 plus months per issue, thereby demoralizing the staff. Management consults with the SC on a large percentage of staff-related issues, but there have also been numerous cases in which the SC was not consulted with.

2009 with immediate effect, in exchange (according to the management) for the Council setting up an editorial Committee.

9. On 5 May 2010, the SC circulated another “Flash”, informing the personnel that the suspended staff member’s contract had not been renewed. Two days later, the management launched an investigation and concluded on a new suspension of the Council’s ability to send e-mails to all staff until its completion. Most of the members of the SC resigned at that point, dismayed. In a letter on 18 June, 13 staff members, including several former or current members of the SC, wrote a letter to the SG to explain that it was the Council’s duty to inform the personnel that one of its members had been suspended from duty and would no longer be able to represent them. In their opinion, the decisions adopted on 25 September and 7 May had breached the Council’s freedom of expression. This letter was not answered, but criticized in a SG memorandum of 3 September. The absence of any move in the respective positions led to a litigation before the ILOAT.

10. The judgement 3156, pronounced on 9 November 2012, followed the direct appeal to the ILOAT of two complainants who had left the Organization on 30 September 2010 and contains two basic elements to be noted as lessons learned:

(a) A reaffirmation of the freedom of speech (with some reservations mentioned below) for bodies of any kind that are responsible for defending the interests of international organizations’ staff, including the right to task the administration of the organization whose employees they represent.<sup>73</sup> Such freedom of speech can be respected only if they also have a freedom of communication which is part and parcel thereof. The administration was wrong in calling it a “privilege”. The ITU should under no circumstances seek to review the accuracy of information disseminated by the SC.

(b) An affirmation of the limits of the right to freedom of speech and freedom of communication: an organization is entitled to object to misuse of the means of distribution made available to its staff committee<sup>74</sup>. The right to freedom of speech does not encompass action that impairs the dignity of the international civil service, or gross abuse of this right and, in particular, damage to the individual interests of certain persons through allusions that are malicious, defamatory or which concern their private life. Considering those elements in particular, and using the similarities with the case object of its judgment 2227, the Tribunal dismissed the complaint.

### **C. Resilient duality of staff representation**

11. In the wake of the events mentioned above, the voluntary departures of appalled members of the SC left a minority of six members, under the quorum defined by the texts, in charge of its representational task until its renewal at the elections of December 2010. They revealed, for the first time since 1996, a real duality between the ITU SU and the ITU SC, a duality that was encouraged by the leading role of new personalities and the divergence in cultures among them. Until 2010, the two groupings had been led by the same persons, elected through two different electoral processes and colleges: the SU by the General Assembly of its numerous members, and every second year, the SC by the staff at large. Institutionally, the management was facing two groupings, each one with its own legitimacy to represent the staff while some of their

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<sup>73</sup> See judgments 496 under 37, 911 under 8 or 1061 under 3.

<sup>74</sup> See judgment 2228 under 11.

leaders were seating in both organs. A historical approach is the only key to understanding such a strange situation.

12. Since its inception, the ITU Staff Association (SA) had been, for decades, the sole SRB at the ITU, dealing with management and launching a tradition of socio-cultural events. From 1953 onwards, it was recognized as a full founding member of the Federation of International Civil Servants Associations (FICSA)<sup>75</sup>, created the year before, and to which it has always paid dues based on the total number of staff members, their effective fees being retained by the ITU payroll to be paid to the SA. It was also recognized for decades as the only SRB by the ITU administration. Around 1989, the SA during the General Assembly of the ITU staff, decided to create the ITU SU, and the SC was an integral part of the Union, meaning that they worked together. The officers of the SC were the same as the officers of the SU, and this was approved each year during the General Assemblies.

13. On 29 May 1992, the SG confirmed to the Chair of the SC that the Coordinating Committee (of Member States) agreed to a “package” prepared by and contained in a memorandum of an internal **staff-administration consultation group**, recently created at the request of the SG “to explore ways in which staff relations could be improved with resultant benefits to the Union and the staff.” The Member States noted that such a package had already been endorsed by the SC, and the SG appreciates positively the early implementation of the recommendations which constitute it. “The Staff Union Committee was given the responsibility of ensuring that such attendance [for ITU staff representatives to FICSA Council meetings...] was essential and remained at a level comparable to that in the past, i.e. within a maximum limit of 25 days per year.”<sup>76</sup>

14. Such text demonstrates the intricacy of linkages between the SU and the SC, also shown by the adoption in 1996, by referendum of the staff at large, of some (internal to the staff) “**Regulations for the representation of the staff**” resulting from an SU Working Group (created in 1994): those regulations are underpinned by the primary objective to give various representative roles to the SC structure, but did not clearly define their inspiration and goals. Amended in 1998 and 2006, they were in force during the period under the JIU review. The SC would basically perform through “studying” draft texts coming from the management, submitting opinions, proposals and requests to it, and possibly “transmitting” (in its own way) those coming from other staff groups (such as the SU). In 1997, the Staff General Assembly expressed (unanimously, less one abstention) its positive appreciation for the implementation of the said “Regulations for the representation of the staff”, while recognizing “*the difference between the ITU SU and the ITU Staff Council*”, but unfortunately did not explain, define nor qualify it, with all consequences of such duality having not been timely drawn. For instance, in order to participate in the official staff representation, SU members had to be candidates to the elections of the SC, and the members of the SU Committee had to also be elected to the SC Bureau.

15. For several years, **no attempt was made to articulate SU and SC**. As long as the same persons were leading both the SU and the SC, those two structures could coexist harmoniously, the latter appearing only as the official representation arm of the first one. The SU report of activities for 1999 stresses this unity, stating: “On March 12, 1999 **the General Assembly [of the SU] ratified the composition of the SC Bureau as being the SU (executive)**”

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<sup>75</sup> See the JIU Report JIU/REP/2012/10 section X: Staff Federations.

<sup>76</sup> Memorandum of the staff-administration consultation group mentioned above, para. 2.

**Committee.”** The ITU SU never stopped playing a key role within the staff representation, because the **SC functions have been performed since April 21, 1994 and until 2010 by the SC Bureau.** The spirit of the decision was the SU delegating some of its authority to the SC as indicated by its original (French) title: “Attribution du rôle du Comité du Syndicat au Bureau du Conseil du personnel.” (Attribution of the role of the Staff Union Committee to the Bureau of the Staff Council). It is obvious that such a statement was confusing, through mixing the positions of the SU Bureau to those of the SC Bureau. The SU subsequently proposed to abolish it at its next General Assembly when adopting modified statutes.

16. The text of the said Regulations continued to be considered as authoritative by all parties until 2012. However, the SU maintained its own parallel executive committee and bureau, and held elections in annual alternation with the elections to the SC. This resulted in duplicate structures, meetings and means for the sole function of representing the same staff’s collective interests. With new SC members not coming from the SU after the 2010 commotion, risks of conflicts clearly appeared. On 2 July 2010, the Chief of the Administration and Finance Department tried to clarify the situation by stressing the SC’s official recognition in legal texts leaving the SU without any space, phone line or means to be effectively heard by the administration except through the official, unique channel of the SC. Meanwhile, as per article 2c of its statute, the SU continued to proclaim itself as the “*driving force*” for staff representation. In spite of some proofs of representativeness, such mention rightly disappeared in 2012, as it is alien to any legal text. The general elections will be the only future benchmark to be used.

17. Such a situation presented a weakness, inviting any management to interfere in staff affairs, despite the principle of freedom of association. Whatever the legal reasons that were advanced for this, it must be observed that the ITU subsidies and facilities went to the SC rather than the SU, in spite of the proven major representativeness of the latter. Paradoxically, in its response to the JIU, it was the SC which was, in 2012, claiming for more time-release and affirmed that “*it is felt by management and the staff council that a percentage of the Official budget should be used to care for staff representation needs.*” Ironically, this complaint could be, and was, also voiced by the SU, which had to work without any office space, equipment or phone line.

18. After the administration had published, in 2010, texts clearly supporting the SC, it had observed, with some concern, the increasing tensions between the two SRBs, since they elected different persons, including Presidents to both bodies. The refusal of FICSA to recognize a second SRB (the SC) among its members, in addition to its founding member (the SU, formerly SA), triggered a positive search for a solution. While the SU continued to pay high membership dues to FICSA to represent all ITU staff, the SC’s Chair, on the other hand, has been making a case before the MS in the ITU Council for the SC’s **exclusive representativeness**. The fact is that only 15 individuals were making voluntary contributions to the SC in 2012, while on the other hand, the SU collected voluntary dues from 360 staff members (out of 756). Discussions were launched in good spirits, with the help of the "Chief of Human Resources Management Department" serving as moderator to revise three texts: Art. 8.1 of the SRRs, the “Règlement” (Regulations) for staff representation and the SU statute.

19. In his written reply to the JIU questionnaire (May 2012), the SC Chair stated that “*FICSA recognizes instead an ITU club/association called “the Staff Union” as the legal representative body. This club/association is not a “Union” and does not represent all ITU staff.*” He also prepared a text to rule that former members of the executive committee of the SU should be excluded from the elections to the SC (a notion contrary to the principle of freedom of

association, and which was eventually abandoned, but demonstrated a degree of hostility toward the SU).

#### **D. The way forward**

20. The aforementioned challenge, presented by dual SRBs, is well-encapsulated through the following observation by the management: *“In adherence and compliance with fundamental principles of the international civil service (standards of conducts, code of ethics” (...) there must be an agreement as to the persons by or through whom the structure acts, the means by which those persons are selected or elected, the matters in respect of which they have authority to act and the powers that they have in relation to those matters.”* Hoping to help to find such a difficult agreement, the Inspector observed and suggested, in the draft version of the present note sent to the three parties concerned, the following observations and principles:

- (a) ITU management needs to have only one partner (SRB) representing the staff at large;
- (b) The governance of this SRB should be fully democratic and should not exclude any staff member from electing its governing body or being elected to it by the staff at large, except in case of a clear conflict of interest between some functions (for example, polling officer);
- (c) To be manageable, the SRB’s governing body should have a limited number of members, proportionate to the size of the organization;
- (d) This governing body should be named the Staff Council, as foreseen in all legal texts stipulating its representational role;
- (e) The simplest solution would be to have only **one democratically conceived and elected SRB**;
- (f) The new SRB would apply to one federation in accordance with the latter’s internal financial rules;
- (g) All individual contributions from staff members to the SRB should remain voluntary;
- (h) The benefits of some services (insurance, legal counseling) or a discount on others should not be interrupted but could be reserved to paid-up members;
- (i) Any solution to the conflict should require some effort from all parties and the organization of a transitional stage, including general elections.

21. Some of those suggestions were used in the long task of re-thinking undertaken to put an end to such an absurd situation and find a pragmatic and legally correct solution, with much good will and intelligent understanding by several of the actors concerned. It continued in 2012 after the period under review and resulted in a series of service orders (SOs), signed and promulgated by the SG of ITU on 30 January 2013, to organize the social life in the ITU at the (not necessarily sustainable) satisfaction of the three parties.

22. Through the SO 13/01, amending the Staff Rules 8.11, 8.31 and 8.32, a distinction is rightly made between any association of SM having agreed to act collectively for the sole purpose of protecting and promoting their professional interests (as the SU), and the clubs grouping SM for the purpose of pursuing leisure or recreational activities. The SC shall be consulted on questions relating to staff welfare and administration, including policy on appointments, promotions and terminations, and on salaries and related allowances. It will be entitled to make proposals *“on behalf of the staff, and any association (as mentioned above), regarding such questions. The SC will be informed, for consideration and comments, of general service orders prior to their publication (at a session of the JAC). Resources and facilities will be granted, under some conditions, to associations and clubs that are regularly established. They will all benefit from freedom of expression within the strict limits of the aims and objectives defined in*

*their respective regulations, and subject to the limits established by the general principles of law and the ILOAT jurisprudence*". The SO 13/02 defines the various kinds of resources and facilities to be established to enable the SC to fulfil its role. The SO 13/03 defines criteria and conditions for the recognition of staff associations and clubs, and which resources and facilities should be granted to them.

## Joint United Nations Programme on HIV/AIDS (UNAIDS) (2009-2011)

1. According to the UNAIDS Secretariat Staff Association (USSA), Staff-Management relations (SMR) in UNAIDS are exceptionally good. There exists genuine, good faith, open dialogue, and even when USSA and management do not agree, SMR quality was rated as “excellent” by both sides. This seems to be due to a combination of various important factors and positive signs, including:

- (a) A **corporate culture** and shared vision with the accompanying motivations, similar to what has been found by the JIU in UNICEF when evaluating SMR within the United Nations;
- (b) A relatively “young” and still malleable programme, where things can still be changed (e.g. the transfer in 2010 of approximately 250 national staff from United Nations Development Programme contracts to UNAIDS contracts administered under WHO Staff Regulations and Rules that are adapted to meet the special needs of UNAIDS);
- (c) The fact that Staff Rules clearly recognize (section 9 on staff relations) the right of association, including the legitimacy of actions developed beyond the framework of the organization, for example by the federations of staff unions: *“The staff of the Organization may associate themselves with the staffs of other United Nations organizations in the development of joint activities and in the expression of views on matters affecting the international civil service”* (Staff Rule 910);
- (d) The clear recognition in the Staff Rules that *“The Organization may give financial assistance to any such association in the furtherance of activities beneficial to the staff, provided that the membership of the association also contributes substantially to such activities”* (Staff Rule 930);
- (e) A statute (USSA Constitution) which refers in its purpose to the Association’s role in promoting *“generally accepted labour standards”* and conformity with *“the Conventions of the ILO, including its Code of Practice on HIV/AIDS and 2010 Recommendation concerning HIV and AIDS and the World of Work”*;
- (f) A statute which clearly ensures (article 8) an elected balanced representation of the staff at large at the Executive Committee level, between the headquarters (8 members) and non-HQ duty stations (seven members), up to the provision (article 14) for a balanced quorum during meetings organized as teleconferences;<sup>77</sup>
- (g) The willingness of the staff to speak with one voice and to represent the interests of all UNAIDS staff around the world;
- (h) A vision and set of criteria for staff representation and representativeness (qualities and skills required to effectively perform a staff representational role) that is shared by both management representatives and staff representatives;
- (i) An organizational culture where senior managers effectively practice an “open door policy”;

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<sup>77</sup> Another element of the USSA statutes that enhance effectiveness and efficiency is the one stipulating that *“Any Executive Committee member seat that becomes vacant during the term of office shall be filled by the candidate of the same staff category (Geneva-based or non-Geneva-based) who, during the preceding election, obtained the next largest number of votes to the last-elected candidate. The candidate thus appointed shall serve out the remainder of the term of office of the Executive Committee member they have replaced.”*

- (j) A management able to refer to the above-mentioned USSA statute, as well as to the most relevant articles (article 20 on freedom of assembly and association; art. 23 on the right to form and join trade unions) of the Universal Declaration of Human Rights, and art. 2 (a) of the ILO Declaration on fundamental principles and rights at work (1998), particularly art. 2, by which the ILO Conference “*Declares that all Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization, to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions, namely: (a) freedom of association and the effective recognition of the right to collective bargaining*”;
- (k) A management able to encourage participation in the USSA, the Executive Committee of which has four staff representatives at the P5 level and one staff representative at the D1 level out of 15 Committee positions;
- (l) An Executive Head who is highly esteemed as a leader who moves things forward for the better and takes the time to meet on a regular basis with the staff-at-large;
- (m) A staff union (USSA) authorized and able to convene town hall meetings as well as “webinars” for country-based staff;
- (n) A staff union which works to proactively prevent conflict and identify challenges at an early stage;
- (o) Communication to staff at large on the outcome of Staff-Management discussions;
- (p) Dialogue with the Senior Management Team and at Regional Management Meetings on issues affecting staff; discussion on possible joint Staff-Management trainings, following suggestion by the USSA, to be delivered in the context of future meetings of senior management;
- (q) Real pride at USSA, which would be “*pleased to share its experience from UNAIDS, as representing a forward-looking and constructive model of Staff-Management relations which could be useful at the UN system level, where there is room for a more modern, engaging form of Staff-Management interaction*”;
- (r) An annual report and oral statement by USSA to the governing body (UNAIDS Programme Coordinating Board) constructively outlining well-defined concerns, questions and proposals (for instance, eight key elements for a successful workforce review) and committing itself to support all management efforts towards ensuring zero harassment – after the issue was highlighted as a real concern of staff at large via a 2010 staff survey;
- (s) Interaction with Member States and the other members of the Board (civil society representatives, delegates of the 11 co-sponsor organizations) translates into excellent support to UNAIDS staff, whose commitment and professionalism are valued.

2. Despite the excellent rating on SMR quality given by both sides, some challenges remain, according to the USSA. Specific examples include the following: the need for more timely communication to all staff of workforce changes resulting from the UNAIDS “functional review” process; the need for dialogue regarding human resources-related audit findings and consultation between staff and management prior to implementing changes to recruitment processes; and consistent sharing of draft documents on SMR-related issues at an early enough stage to allow for adequate consultations and deliberations with constituents.

3. SMR in UNAIDS take place through discussions and consultations.<sup>78</sup> It is recognised that the Executive Director makes the decisions and is ultimately accountable for them. Collaboration between USSA and management has been productive during the period under review, allowing for the adoption of a new and agreed UNAIDS Strategy on Human Resources (2011-2015) that the Inspector found excellent in many regards, in particular the strong linkage between the UNAIDS mission and the organizational values required from the management and the staff of the Programme. The document clearly states that: “*the Strategy is based on a strong partnership with the staff, management and the Staff Association*” (para. 9). A HR Advisory Committee (HRAC) was subsequently established; its TOR include the participation of two staff representatives. In addition to participating in the review of several draft policies through the HRAC, including on mobility, reassignment and placement, and personal status, SRs also contributed, in 2011, to a handbook on ethics, values and practices for UNAIDS staff.

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<sup>78</sup> The UNAIDS-USSA Agreement on Cooperation states, in Article 2, that “*The Organization recognizes the USSA as the representative of the collective interests of its members for the purposes of dialogue, information exchange, consultation and cooperation.*”

## United Nations Educational, Scientific and Cultural Organization (UNESCO)

1. Staff-Management relations (SMR) at UNESCO with 2138 staff members<sup>79</sup> (57 per cent HQ-based, 30 per cent in the field and 13 per cent in institutes) was affected by two major events during the review period. The first, an issue that has since been resolved but with broader implications, was the loss of representative status by one of the two staff representative bodies (SRBs) – the International Staff Association of UNESCO (ISAU) from 1 March 2010 to 28 February 2011. The second issue was the budgetary crises facing UNESCO that was ongoing during the JIU review period.

### A. Multiple SRBs and the 15 per cent threshold requirement for representativeness

2. Both the SRBs and administration noted during meetings with the JIU that (while the UNESCO Staff Union (STU) had been in existence since the early years of the organization) ISAU was created in 1980 to provide a platform for staff from African, Latin American and Asian countries. At that time, STU was perceived as being dominated by a few staff members from certain developed countries who allegedly promoted personal interests and were too focused on interests/concerns of only HQ-based staff. However, both SRBs acknowledged that the situation had evolved significantly over time such that presently, there was no geographical self-selection by staff-at-large when deciding to join one SRB or another. Both SRBs were very mixed with regards to their membership, including in the breakdown between GS and P staff which was proportional for both STU and ISAU. They also enjoyed very close and collaborative relations with each other, as evidenced in the context of ongoing UNESCO reforms with the two SRBs issuing joint statements on issues of common concern.

3. Such duality led UNESCO's administration to distinguish "representative associations" via section 9.2.C. of the UNESCO HR Manual<sup>80</sup> which states that "the approval by the Director-General of a staff association's constitution constitutes its official recognition." However, in order to be approved the constitution must fulfil four conditions including that "the association must comprise at least 15 per cent of the members of staff".<sup>81</sup> This implies a minimum of 30 per cent of unionized staff members in UNESCO to allow two different staff unions, which is a very high requirement. Such conditionality is unique in the whole United Nations system both in nature and magnitude. Among comparable non-UN entities, the only similar requirement in nature can be found in the *Agreement on relations between the European Commission and the trade unions and staff associations* where the required minimum percentage of unionized staff in order to have a staff organization recognized as representative is six per cent of the overall staff.<sup>82</sup>

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<sup>79</sup> As of 1 June 2011 and not including temporary contract holders.

<sup>80</sup> Published on 16 December 2009. Updated on 7 December 2010.

<sup>81</sup> UNESCO HR Manual, 9.2.C. 3(d).

<sup>82</sup> Excerpt from Article 9\_: Representativeness of the organisations:

The European Commission shall recognise as representative the recognised organisations which meet the following two criteria:

- they represent at least **6 per cent** of European Commission staff at central level and 5 per cent at local level (in a single place of employment);
- they have at least **400** fully paid-up members who are officials, other servants or retired officials of the European Commission;

Organisations meeting the above representativeness criteria shall be permitted to sign this Framework Agreement as signatory representative organisations.

4. To determine a “member of staff”, UNESCO Staff Rule 100.2 states that “(a) Staff member means a person engaged by the Director-General other than a consultant, supernumerary, holder of a fee contract, a person engaged specifically for a conference or meeting, for auxiliary duties in the UNESCO, or for maintenance duties in offices away from headquarters, or a casual labourer”. To determine whether the threshold has been met, there are four provisions in section 9.2.H “Annual determination of the representativeness of associations” of the HR Manual. From these provisions, it becomes clear that even when an SRB fails to reach the 15 per cent threshold, it will still continue to enjoy certain (albeit diminished) facilities and rights as detailed in section 9.2.I. of the HR Manual.<sup>83</sup> Additionally, in determining membership, the Administration excludes retirees – an issue that would become a point of contention for ISAU.

5. On 7 December 2010, UNESCO’s administration published an Information Circular (IC/HR/12) noting that on the basis of the information provided by ISAU and STU and verified by Internal Oversight Services (IOS), in respect of their membership as at 31 December 2009, the membership of ISAU accounted for less than 15 per cent of staff and subsequently for the period of 1 March 2010 to 28 February 2011, ISAU was “not a representative association”. The IOS audit (IOS/AUD/2010/20) noted that the review was “triggered by the disappearance of membership files by ISAU”. The IOS audit concluded that “of the 325 members declared by ISAU as of 31 December 2009, 313 fulfilled the membership criteria. HRM confirmed a total staff count of 2472 on 31 December 2009. With 12.7 per cent of staff as members, ISAU fell short of the 15 per cent membership criteria required for accreditation as per Chapter 9.2 of the HR Manual.”

6. In December 2010, ISAU published a response contesting the denial on grounds that pointed: On the form: to the absence of consultation on the audit’s draft terms of reference before it was carried out (HRM states that it provided both SRBs with the ToR on 9 July 2010); neither access to, nor disclosure of the staffing table as of 31 December 2009 which served as the basis for determining ISAU representativeness; and no submission of the findings and conclusions of the audit report to ISAU to allow it to make written comments prior the DG’s approval and decision (HRM refutes this point noting that the draft report was shared with ISAU by IOS before communication to the DG).

On the substance: the *Statistical Briefing on UNESCO Staff* published by HRM showed the total Secretariat staff count (fixed-term and indeterminate staff on regular and extra-budgetary posts) at 2133 (not comprising Appointments of Limited Duration (ALD) and temporary staff members) on 1 January 2010 – an alleged discrepancy of 339 staff over the course of a day according to ISAU. ISAU also contested the fact that nine of its declared members were not counted by IOS on the grounds that they were not active members, i.e. they retired or separated

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<sup>83</sup> Some of the “special provisions” that both SRBs at UNESCO will enjoy irrespective of whether they can maintain “representative status” or not include:

(a) possibility of making written comments on proposed amendments to the Staff Regulations or Staff Rules, or to any other text concerning the staff’s terms of employment and working conditions submitted by the Director-General to the General Conference or to the Executive Board; (b) possibility of submitting their observations orally on matters concerning the terms of employment and working conditions of staff to the appropriate organs of the Executive Board and of the General Conference, subject to the prior agreement of those organs and within the time limits set by them; (c) equal sharing of 25 per cent of the subvention earmarked in HRM’s budget for the relevant year. (d) granting of a half-time post in the General Service category; (e) granting of an annual quota of 100 workdays of special leave with pay; (f) provision of the necessary premises for their day-to-day activities and of meeting rooms as necessary; (g) granting of quotas included in the Division of Conferences, Languages and Documents (CLD’s) estimates for the translation, composition and printing of their documents; (h) facilities for the dissemination of information within the Organization (distribution of documents by ADM/HQD, notice-boards and the possibility of displaying messages on closed-circuit television or sending it by e-mail). The Organization also covers the cost of outside communication (postage of correspondence); (i) use, free of charge, of UNESCO’s ICT equipment within the limits of an annual quota.

as of 31 December 2009. ISAU observed that Article II of the ISAU Statute allowed for retirees to be associate ISAU members; by discounting them, ISAU alleged that IOS had breached Article 2 of the ILO Convention N° 87 on freedom of association and the protection of union rights. HRM countered this assertion noting that the HR Manual provides that “membership is taken to mean the number of staff in active service” (item 9.2, para. 12).

7. A meeting between ISAU and the DG (held on 17 February 2011) followed by meetings with other officials led to improvements in relations. Through a letter to the DG, the ISAU President invited IOS to review its membership figures. ISAU membership status was formally reinstated<sup>84</sup> for the period from 1 March 2011 to 29 February 2012 through an Information Circular which confirmed that it had met the required threshold (15 per cent plus) for the aforementioned period.

8. In the Inspector’s view, the strains in SMR resulting from the aforementioned circumstances highlight three major learning points to take forward:

(a) At the end of each year, had HRM made staff population data (providing exact official figures on those who would qualify as “staff members” in line with Staff Rule 100.2) available to the staff-at-large, much of the aforementioned confusion and distrust could have been averted. In this regard, progress has already been attained with HRM noting that since early 2011, it began publishing key staffing data on its intranet (open to all staff as well as delegations) which includes: the number of UNESCO staff on fixed-term or indeterminate appointments funded by the Regular Programme and extrabudgetary funds and, unless expressly indicated, does not include staff on ALD, temporary staff or personnel with other types of contracts. Such information is provided by HRM upon request. Staff members on leave without pay are not included.

(b) As per the IOS report, the audit was initially triggered when ISAU declared, by a memo to HRM (dated 4 May 2010), a loss of all records and dues payments for 75 additional members. While ISAU made it clear in the aforementioned memo that the loss of records was due to the negligence of the organization’s movers who had misplaced ISAU’s files, and no formal investigation was carried out by the organization on the loss of records and due payments, this incident should serve as an example for the concerned entities to take additional precautionary steps to ensure the safeguarding of records and undertake proper investigations and inquiries when the situation deems it necessary..

(c) HRM noted that the 15 per cent threshold resulted from negotiations between senior management and the SRBs prior to 2000 and was subsequently introduced into the UNESCO HR manual. However, while HRM noted that all exchanges and decisions related to staff representativeness are clearly documented for audit trail purposes, neither HRM nor the two SRBs could provide the JIU with any documentation on how the 15 per cent threshold decision was arrived at. This lack of institutional memory given the sensitive nature of the topic is deeply regrettable and shows a blatant lack of records and archive management in this organization. While the threshold remains unique to UNESCO, any attempts to implement similar requirements in other United Nations entities should clearly proceed through formal joint mechanisms and any decisions arrived at should be derived through consensus.

9. The Inspector welcomes the close collaborative relations between the two SRBs as a unique example of multiple SRBs in the same organization competing for the same constituencies but operating harmoniously. However, and with full respect to the principles of freedom of

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<sup>84</sup> IC/HR/36 (30-08-2011).

association which clearly allows for the existence of multiple SRBs in an organization, the Inspector invites STU and ISAU to discuss among themselves the question of their duality from an efficiency perspective, in view of possible significant benefits which could be attained by uniting into one common SRB at their own free will.

## **B. Effective staff participation in ongoing UNESCO reforms**

10. In budgetary terms, UNESCO was hit particularly hard by the decision of its single largest contributor (providing 22 per cent of its regular budget) in October 2011 to withhold funding. The *“Report by the Director-General on the current situation and roadmap for the implementation of the 36 C/5”* to the 189<sup>th</sup> Session of the UNESCO Executive Board (November 2011, 189 EX/Decision 15 (I Addendum)) had raised serious concern among both SRBs as it carried major cost-cutting implications, allegedly including possible reductions in staff numbers and modifications of their conditions of service. In responding to the draft, HRM noted that as of 14 September 2012, no encumbered regular staff posts had been abolished nor had any modifications been made to contractual conditions of service of staff.

11. This prompted an emergency general staff meeting (9 March 2012) attended by nearly 600 individuals, followed by a joint statement being issued (21 March 2012) by the two SRBs (ISAU and STU) highlighting, among others, the statutory role and right of staff representatives to be consulted prior to any decisions that could clearly affect staff welfare. They also cautioned that the UNESCO constitution does not “list among the functions of the governing bodies (General Conference and Executive Board) any prerogatives whatsoever concerning the appointment or separation of staff, which is the sole responsibility of the Director-General” and expressed apprehensions of micro-management by the Member States in this regard. A subsequent joint statement (25 April 2012) by the two SRBs announced the launch of a “Joint Legal Assistance Fund” and the appointment of a “Legal Advisory Group” to deal with the fallout of HR decisions emanating from the 189<sup>th</sup> Executive Board sessions. HRM, for its part, notes that following questioning from Member States on the aforementioned issue during the 189<sup>th</sup> EB Session, it was confirmed that there had been no legal breach in the procedures.

12. In the Inspector’s view, the Director-General must play a decisive leadership role and reassure her staff that decisions affecting staff welfare will only be taken following adequate consultations with the staff-at-large through their designated representatives and via the appropriate channels, namely the Advisory Council on Personnel Policies (ACPP) – the “joint administrative body set up to advise the Director-General on general personnel questions and staff welfare”(UNESCO HR Manual, 9.3.A.1). The Director-General and through her – her designated representatives, must be at the front-line of ensuring that policies and procedures outlined in the UNESCO Constitution, Staff Rules and Regulations and the HR Manual are respected in their entirety in each step of the reform process, particularly as it concerns HR issues.

13. In this regard, HRM has noted that as part of maintaining good SMR, the Director-General with some members of the Senior Management Team, meets on a regular basis with both SRBs. For example, throughout the months of January and February 2012, the Director-General had a series of individual meetings with staff from each Sector/Bureau/Office at HQ in order to listen to their concerns, ideas and proposals for helping the Organization deal with its financial situation and fulfil its mission. Town hall meetings with staff – including live link-ups/streaming to field offices – are also held. Additionally, HRM pre-schedules six months in advance its monthly meetings with the SRBs to discuss HR strategic/policy issues as well as individual cases, as requested.

## United Nations Industrial Development Organization (UNIDO) (2009-2011)

### A. Size and SMR Quality

1. UNIDO had as many as 1400 staff members before drastic reductions in staff size, as decided upon by its governing body, brought staff numbers down by nearly half (755 presently). These figures do not include consultants and non-staff, who number between 80-100 in HQ and 1500 in the field. Following some serious conflicts in the past (2003-2006), illustrated by ILOAT judgment 2662 (following the Director General's (DG's) decision to diminish by half the time release of the SC Chair, for which UNIDO had to pay €15,000 for moral damages, plus €5,000 by way of costs of the proceedings), in the recent years, SMR in UNIDO has been much improved.

2. For 2010-2011, SMR quality was rated as "excellent" by management and "good" by the SRs. As stated by the management,<sup>85</sup> *"currently, most staff welfare issues at UNIDO are discussed in an amicable manner in a comfortable, non-hostile or non-adversarial environment."* Paradoxically, the common necessity to accept staff reductions developed a sense of solidarity, facilitating more interpersonal and informal relations among staff and management, as well as with the Member States. The Staff Council (SC) meets at least twice a year with the DG, who considers it as serious and practices an open door policy in this regard. Since 2010, the SC has been invited to the annual senior management retreat, a good practice showing transparency.

### B. Legal framework

3. UNIDO Staff Regulations and Rules (SRRs) reflect those of the United Nations of which UNIDO was once a part. Management notes that *"the rules reiterate the entitlement of the Staff Council, to effectively participate in identifying, examining and resolving issues relating to staff welfare, including conditions of employment and work, general conditions of life and other matters of personnel policy. This entitlement includes also a right to make proposals and representations directly to the Director-General on behalf of the staff on such issues."*<sup>86</sup>

4. While Staff Rule 105.01 (a) already ensures that *"in accordance with the principle of freedom of association, staff members may form and join associations, unions or other groupings"* and does not place any limits on their number, only one SRB currently exists in UNIDO. In outlining its perception of the role of an SR, management notes that *"he shall act as a partner to line and senior management in achieving UNIDO's programme objectives and mandate."*<sup>87</sup> Currently, only consultations take place officially; there are no negotiations.

### C. Joint bodies: Best practices of a critically important Joint Advisory Committee

5. According to management, the DG has shown his appreciation to the members of the JAC in a commending letter shared with all staff, which UNIDO recommends as a best practice to demonstrate interest and support by senior management in the Staff-Management consultative process. The particularly high frequency of JAC meetings illustrates the vibrancy of SMR in UNIDO: it met 38 times in 2009 and 24 times in the first four months of 2010. In 2009, the JAC reviewed and agreed on such draft policy documents as Protection from Retaliation,

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<sup>85</sup> Administration/HR Management reply to the JIU questionnaire dated 20 April 2010, I.1.

<sup>86</sup> Ibid, II.2

<sup>87</sup> Final UNIDO management reply to JIU questionnaire dated 16 09-2011, question 29 (d).

Financial Disclosure and Declaration of Interests, Code of Ethical Conduct, Learning Policy, Human Resource Management Framework and a few others.

6. From time to time, the JAC creates working groups to discuss in detail complex policy matters. Such a working group was created to analyse and develop the modalities of a new performance management system. Overall, a vast majority of recent UNIDO policy issuances have been reviewed and agreed upon through Staff-Management consultations, possibly with the help of invited resource persons suggested by staff or management on particular subject matters. Draft policy proposals are submitted to the DG directly by the JAC Chairperson. Such proposals are also presented for discussion at the Executive Board in which the senior management is represented.

7. In case of disagreement with a proposal by senior management, the draft policies are resubmitted to the JAC for further consultations. In most cases, the implementation of policies follows recommendations made by the JAC. Should there be a dispute on a policy decision taken in the JAC, it can be raised in the next consultative or extraordinary meeting. The JAC deals directly with the DG and can submit recommendations directly to him/her for consideration and approval. The DG has delegated the authority to the Managing Director of PSM to approve recommendations of other Joint Staff-Management Bodies, for example, of the Advisory Board on Compensation Claims. Proactive SMR is also prevalent along the lower hierarchical lines at UNIDO as *“line managers are encouraged to engage in dialogue with departmental staff representatives as and when required.”*

#### **D. Protection and facilities for the representational function**

8. An administrative circular<sup>88</sup> affirms the official character of SR functions as well as their *“protection against any discriminatory treatment or prejudicial action based on their status or activities as staff representatives”*. It also provides *“for such facilities that may be required to carry on their functions promptly and efficiently while not impairing the efficient operations of the organization. The precise nature and scope of the facilities to be provided shall be determined within the framework of Chapter V of the staff rules”*. However, the AI already provides, with some precision, a number of “facilities”, including *“for meetings of the Staff Union, the Staff Council or its executive committee and meetings of Units,”* for reproduction of papers, use of telecommunications, and time required to attend inter-organizational or intergovernmental meetings, including appropriate travel time.

#### **E. Five interesting practices within the Staff Council**

(a) While Staff Council members are elected every two years, the Chair is elected annually and directly by staff-at-large.

(b) There are normally several candidates for the position of SC Chair; when there is only one candidate, a referendum on the candidate is organized.

(c) There is a historic tradition of the SC being alternately chaired by SRs from the P and GS categories, respectively.

(d) Respecting the principle of subsidiarity, some meetings are organized at the level of the electoral unit to discuss strictly local or service issues.

(e) The proportion of staff-at-large paying voluntary contributions to the SRB is 68 per cent – remarkably high compared to other United Nations system entities.

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<sup>88</sup> UNIDO/DA/PS/AC.80 dated 28 March 1991.

## United Nations World Tourism Organization (UNWTO) (2009-2012)

1. With only 96 staff members, the UNWTO is the smallest United Nations specialized agency. All HQ-based staff representation in UNWTO is formally established via Staff regulation 23, while Staff Rule 23.1 contains a useful provision regarding further representation which states that a staff representative body (SRB) should “include a sufficiently large number or a sufficiently distinct group of officials.” The UNWTO Staff Association (UNWTO SA), the only SRB at UNWTO, subsequently represents 75 per cent (72 out of 96 in 2012) of all staff who are paying dues and who have indefinite, fixed or long-term contracts. No litigation case involving these issues has been recently brought before the ILOAT.

2. Following changes in management in recent years and the transition of UNWTO from a department-based to a programme-based organization in 2011, **both the SA and management have determined the present state of SMR to be “good” and the quality of consultations and communications organization-wide to be “excellent.”** For the purpose of consultation, all administrative issuances affecting staff welfare are shared with SRs in order to gain their insight and views. SRs enjoy open **access to the Director of Administration and are permitted to meet with the Secretary-General (SG) biannually, privileges which they are keen to maintain.** SR have also used petitions and open letters to highlight specific issues. The administration permits the use of its internal email system for broadcasting purposes and the SA has its own page on the UNWTO Intranet.

3. Both parties determined that the accessibility of Member States was excellent, with **the SA able to present a report directly to the Executive Council (EC)**, a privilege which was stipulated within the Report of the Secretary General. The Report is, as such, an important text on SMR at the UNWTO as it constitutes one of the items on the agenda at the EC session. However, the SA has noted that “in practice, such reports, which appear as the last sub-item on administrative questions, neither get the time they deserve nor are they discussed directly between the SA and Member States. The latter who had been seen by the SRs as **taking a “passive approach to SMR in general” have shown their satisfaction for such a report in 2013.**

4. Below is a significant excerpt from the 2013 edition of the SA report to the EC:<sup>89</sup>

*“One of the recent and principal advances which the Staff Association notes, appreciates and encourages further development of is the publication of Guidelines for the implementation of professional growth plan of the UNWTO by Human Resources.*

*The Guidelines:*

*i. set the frequency of updating the list of programmes and positions, the deadlines for submission of applications for promotion and the criteria and procedures for the adoption of relevant decisions; and*

*ii. are to contribute to the transparency of the procedures, and full compliance is essential to create an environment of fair and equitable work.*

*It should be noted, however, that the only job profiles which currently exist are generic and broad in nature and do not reflect the large variety of (particularly technical) expertise required to fulfil the Organization’s programme of work. In this*

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<sup>89</sup> CE/95/3(II)(g) dated 12 March 2013, presented to the June session of the EC. Through a strange procedure, this report has been sent to the Member States of the EC through the SG and without any modification from his part (see para 9 below).

*regard, the Staff Association recommends the development of post-specific job descriptions as related to the programme-based structure of the Organization which will have several benefits, such as:*

- providing a clearer picture of the Organization's organigramme, the variety of services and the areas of expertise which are offered to our Members; and*
- facilitating the implementation of the Professional Growth Plan by providing greater clarity on roles and responsibilities of each post with a view to optimizing the use of the human resource potential of the Organization - this is important in view of the current budget constraints of the Organization and would also provide a basis for the rationalized filling of vacancies as well as limiting the recruitment of collaborators to implement the Organization's programme of work."*

5. Both sides view Joint Working Groups (JWGs) as informal mechanisms that have played a positive role in facilitating discussions and advancing issues which are of relevance to the Organization. While JWGs have been used to address specific issues (e.g. annual evaluation reports, ethics, overtime, flexitime, external collaborators and reclassification) and their recommendations have been, by way of a number of agreements, the basis for several decisions made by the SG on issues within the realm of his/her ultimate authority, they are nonetheless **non-binding and have no follow-up mechanisms**. But this process uses time inefficiently, and in regards to the SA, *"although the Chair of the Staff Association is entitled to half-time release, it is not done in practice. There is hardly enough time for proper staff representation."*

6. The principal challenge to SMR at the UNWTO is the **absence of representation for external collaborators**, which has been **acknowledged in writing by the SA**. These personnel are tied to their projects and deadlines, with average contract durations lasting between one and two years. Their proportion of the total workforce increased from 26 per cent (34 in total) in 2010 to 33 per cent (45 in total) in 2012. **Categorized as non-staff, they often perform the same tasks as staff members** (including core functions) and have workspaces in the UNWTO premises, but are **subject to less desirable conditions of services than staff members, resulting in tensions between the two**.

7. In line with the SA statute which clearly enables the Association to *"establish the ways and means for the participation and representation, if applicable, of collaborators of the General Secretariat who express a desire to form part of the Association"* (Article 21 (e)), the SA Committee has participated in negotiations with the administration regarding the best ways to represent non-staff interests in their relations with management. During a meeting with the SA in mid-2012, the UNWTO SG suggested that **the SA should become a medium through which non-staff could raise their concerns to management** until some flexibility could be introduced into representation mechanisms for non-staff until some flexibility could be introduced into representation mechanisms. This was confirmed in the management reaction to the JIU draft of the present note.

8. A growing trend has taken hold within a variety of United Nations bodies system-wide in which the distinction between staff and non-staff has become increasingly blurred. This has resulted in cases such where one non-staff member in UNWTO served 12 years without ever receiving access to benefits such as pensions. According to the Inspector, **modalities for the representation of non-staff concerns should be established as a matter of priority** to help rectify this issue. The SA laments the limited capacity of UNWTO's small HRM office (only three staff members) which has resulted in:

(a) delays and resulting concerns from the SA regarding the methods used to harmonize conditions of service at the UNWTO with the rest of the United Nations system, which it joined in 2003. For example, a report on the reclassification of budgeted posts following complaints from the staff that their salaries were lower than those in other similarly-performing United Nations system agencies, was outsourced to a consultant.

(b) The SA taking the lead in tackling issues that should be addressed by HRM (e.g. staff assessment performance reports, guidelines on recruitment, and promotion). The SA does so via **Working Groups (WGs), through which staff must learn on the job** as they receive neither prior training on pertinent HR issues nor (with the exception of the Chair) any time/task release from their line managers for their participation, thereby limiting the expertise and capabilities of WGs. According to the SA, “staff representatives at UNWTO have often had to do things Human Resources and management are supposed to do [which] has not been good for either party.” To further illustrate this predicament, para. 7 of the previously mentioned 2013 report of the SA states that “the staff association continues to place emphasis and importance on the development of a training programme for staff. A proposal for 2013 has been submitted to management which includes basic guidance on the application, approval and funding of a variety of training programmes on a range of technical and administrative topics. It is hoped that an enhanced training programme for UNWTO staff catered to specific needs of programmes would enable the Organization to provide better service to its Members.”<sup>90</sup>

9. The UNWTO is the only organization in the system in which the governing body (e.g. the Executive Council) is officially requesting the executive head of the Organization to:

“(a) continue supporting and collaborating with the Staff Association in its activities, including the formulation of post-specific job descriptions according to the programme-based structure of the Organization so as to ensure the filling of vacancies and promotions in a fair and competence- based, in accordance with the Professional Growth Plan and the Staff Rules, as well as to further encourage advances on gender equality issues within the Organization; and

(b) Support and encourage the implementation of a phased, yet continuous, training programme for the staff within the available financial resources so as to enhance their expertise and, thereby, the quality of service to the Members.”<sup>91</sup>

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<sup>90</sup> Ibid, para. 7.

<sup>91</sup> Ibid, para. 9.

## Universal Postal Union (UPU) (2008-2013)

### I. Background

#### I.1 Universal Postal Union

1. Established in 1874 and based in Bern, Switzerland, the Universal Postal Union (UPU) is the second oldest international organization worldwide. With 192 member countries, the UPU is the primary forum for cooperation among agents in the postal sector. In addition to setting standards for international mail exchanges, it also oversees growth in mail, parcel and financial services and makes recommendations to improve its customers' quality of service. Its Secretariat is the International Bureau (IB).

#### I.2 UPU Labour Force

2. The 2012 annual report on human resource management and activities at the UPU International Bureau prepared by the Directorate for HR provided a detailed statistical breakdown of core and non-core staff according to age, grade, gender and region of origin.

3. Substantively, the report shows that the core staff of the IB amounted to 141 employees (68 were in professional and above and 73 in general services category). Out of 106 non-core staff members, twenty were professionals, one was D1, 25 were managerial, 36 were specialized, 21 were general services and four were administrative employees. Contrary to United Nations tradition, 2012 was also a year of accelerated recruitment before the change of Executive Head, although on the following year this was scaled back due to budget freezes.

### II. Perceptions of SMR: staff surveys

4. Over a period of four years, three surveys captured a similar picture of staff attitudes on various issues. The survey results from between 2009 and 2011 reveal overall satisfaction with work commitments, organization objectives, remuneration and social benefits, but mistrust towards management.

5. In 2007 the administration of the HR Directorate presented a survey of its work environment which followed up on a previous survey conducted in 2004 with 96 respondents. The more recent survey consisted of 108 respondents out of a total of 233 staff members, of which nearly one half were professional and one third support staff members. The management<sup>92</sup> concluded that, overall, staff members were satisfied with their work, remunerations and social benefits although perceptions of favouritism, unequal enforcement rules, and a lack of coordination between services and communication were acknowledged as areas which required improvement. More specifically, three out of four respondents described personnel rules as complex, while half found them favourable to the staff. More importantly, from an SMR point of view, only 11.2 per cent agreed with the assertion that "there was no favouritism within the IB," while 81.3 per cent disagreed including 54.2 per cent who disagreed "strongly," and 7.5 per cent chose not to respond.

6. The JIU survey of 2008, organized as an element of the Management and Administration Review (MAR) of the UPU,<sup>93</sup> demonstrated that besides approval of professional aspects, **only**

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<sup>92</sup> Communication de service n° 55/2007, signed by the then Director General, and annexes.

<sup>93</sup> JIU/REP/2008/1: Review of Management and Administration in the Universal Postal Union (UPU).

1.2 per cent of staff considered the IB to adequately reward outstanding performance, 9.4 per cent that promotions were based on adequate performance-based appraisal, 11.8 per cent that HR policies were implemented fairly, 16 per cent that the recruitment policy was transparent, and 21 per cent that the performance system was fair and transparent.

7. In an April 2011 survey prepared by the management with the initial participation of the SA, a group of universities<sup>94</sup> published a Study on Values and Motivations of Employees of International Organizations. The section “Results for the Universal Postal Union” states that :  
*“Their overall satisfaction is high, even if certain elements of human resource management are evaluated more critically. Specifically, the perception of fairness of the following human resource management practices have been found lacking: the communication of feedback, procedures for determining salary increases or promotions, as well as procedures to evaluate the performance of employees. These results encourage questioning this type of human resource management practices at the UPU.”*<sup>95</sup>

8. None of the aforementioned text appeared in the presentation of the survey to the 2012 Congress. in its para 201 the “Draft report on the activities of the International Bureau 2009–2012” states that: *The survey revealed that staff members were generally satisfied with their work at the UPU. They were shown to be motivated and strongly committed to the organization and to have a positive attitude toward their work environment. This positive assessment covered performance, the benefits available to staff, job security and the quality of relations with supervisors and colleagues. Given that staff members had few work-related health problems and that very few intended to leave the organization, the resulting overall situation at the UPU was seen as very positive.*

### **III. Overall SMR Quality<sup>96</sup>**

#### **III.1 Diverging Assessments**

9. In response to its questionnaire on the current state of SMR, the JIU received a more negative response from the UPU SRB than from the UPU management.<sup>97</sup> Such difference also appeared in eight other United Nations agencies. In 2011, the administration qualified SMR as “average,” while the IB SA considered them to be “poor”. The discrepancy was even greater when respondents were asked how they would qualify the state of SMR organization-wide with regards to the following:

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<sup>94</sup> Values and Motivations of Employees of International Organizations, Results for the Universal Postal Union, June 2011, Swiss Network for International Studies, Universities of Lausanne, Geneva (Department of Political Science and International Relations) and Zürich, [http://www.snis.ch/call-proposals-2010\\_236\\_giauque](http://www.snis.ch/call-proposals-2010_236_giauque).

<sup>95</sup> Ibid, page 3, 14.

<sup>96</sup> Taking into account the importance of personalities in SMR, it must be noted that on the management side the same DG, Mr Edouard Dayan, remained in place for two terms from 2005 to 2012, and was succeeded by Mr. Bishar Abdirahman Hussein in January 2013 while the SA chairs changed in 2008 (Paola Rossi since 2006), 2010 (Opa Guiro, until a sudden resignation from UPU one week before the November 2010 CA. He was replaced by the Vice Chair Alassane Guiro), 2011 (Claude Montellier until his retirement at the end of 2012) and 2012 (Christine Bétrémieux, re-elected in 2013).

<sup>97</sup> See Staff Management Relations in United Nations Specialized Agencies and Common System JIU/REP/2012/10, para. 57.

	Excellent	Good	Average	Poor / Challenging	Crisis	Remarks
Communication and information			Management (M)	Staff (S)		
Consultation		M			S	
Negotiations		M			S	
Member States informed and updated on SMR issues		M			S	

### III.2 Joint Committees

10. There exists institutional bridges between staff and management such as SRs who hold positions within the Appointments and Promotion Committee (APC), the Joint Advisory Committee (JAC), the Disciplinary Committee, the Joint Appeals Committee (which is a sort of in-house tribunal), the Loans Committee, the Administrative Board of the Social Fund, the Management Board of the UPU Provident Fund, and the Investment Committee of the UPU Provident Scheme. Each of these committees encourages and prioritizes SC proposals. As a preparatory document for its 2009 GA<sup>98</sup>, the International Bureau Staff Association (IB SA) published “Representation on Committees, Councils and Working Groups and Right to Information,” which focused on related difficulties and requested right of access to files informing the committees.

11. It should be noted that the composition of those bodies, as organized by an Internal Memorandum,<sup>99</sup> is not based on parity; staff representatives are always assigned a minority representation and hence are outnumbered in representation. The chairmanship is always assigned to a representative designated by the DG. In late April 2011, the Staff Committee observed<sup>100</sup> that no SR was yet taking part in the Careers Board which, it stated, was “contrary to good governance principles agreed by the International Civil Service Commission (ICSC) as regards the role of staff representatives.”<sup>101</sup>

12. As per Staff Regulation 8.2, JAC is the principal “joint administrative machinery with staff participation” (to be established by the DG) “to advise him regarding personnel policies and general questions of staff welfare, and to make to him such proposals as it may desire for amendment of the Staff Regulations and Rules (SRRs).” This Regulation offers an institutional context to Staff Regulation 8.1, which states that “staff shall enjoy the right of association. The interests of the staff shall be represented before the Director General by the Committee of the Staff Association duly elected by the staff. The Committee shall be entitled to make proposals to the Director General for improvements in the situation of staff members, both as regards their conditions of work and their general conditions of life.”<sup>102</sup> Staff Rules 108.1 and 108.2

<sup>98</sup> AP AG 2009, document 6.

<sup>99</sup> See No°9/2011 as an example.

<sup>100</sup> SAC: “Observations of the International Bureau Staff Association on Human Resources Management.”

<sup>101</sup> Framework for Human Resources Management, [icsc.un.org/resources/pdfs/ppd/hrmframe/ICSC\\_hrm\\_eng.pdf](http://icsc.un.org/resources/pdfs/ppd/hrmframe/ICSC_hrm_eng.pdf).

<sup>102</sup> Staff Regulation (SR) 8.1 of the UPU may be compared with SR 8.1 of the United Nations which prescribes “continuous contact and communication with the staff in order to ensure the effective participation of the staff in identifying, examining and resolving issues relating to staff welfare.”

outline the implementation of and respect for those Staff Regulations.<sup>103</sup> The latter assigns the chairmanship to the Deputy DG of the UPU IB and requests that the DG designate a suitably qualified staff member to act as secretary of the Committee.

13. In response to the JIU questionnaire, management identified the aforementioned forms of social dialogue as beneficial, stating that “*any major HR related or staff welfare decision is discussed with the staff representatives (SRs) in the appropriate fora in accordance with UPU rules. As examples: whistle blowing policy, policy against harassment, Ombudsman services are recent matters discussed and agreed upon with the JAC. Any outcomes of consultations and negotiations between the Directorate for Human Resources (DRH) and SRs which lead to either new policies in the area of HR or to a revision of existing policies are communicated to line managers and staff-at-large (once approved by the EH) in writing through Internal Memorandums, Administrative Instructions or verbally in Town Hall meetings.*”

#### **IV. The UPU International Bureau Staff Association**

##### **IV.1 Statutes**

14. According to the first *provision concerning electoral procedures* attached to its statutes, each employee, regardless of their membership in the Association, may elect from the IBSA a Committee of (up to) seven members. Committee member positions are distributed as follows: one member is P5 staff and above, two members are P1 to P4, and three members are in the GS category. The remaining member, also called “non-core staff,” is not subject to the IB Regulations and Rules. Only staff association members may elect the Chair, which permits a more balanced representation. But it must be observed that in recent elections, only once (in 2011) was a candidate from the P5 category or higher considered for such elections.

15. Retired staff of the UPU may retain member status in the Association if they wish. They are not included in calculating the quorum, but maintain a voting right which the Inspector sees as an (historically rooted) anomaly in terms of democratic governance. Naturally, all of them can continue to use IBSA-provided services.<sup>104</sup> The chair of the Association of Retired Staff and Pensioners of the UPU (ARPUPU) may participate and be given the floor in the General Assembly. The practice, particularly for the election of the Staff Committee, shows that the influence of retirees is limited; in June 2011, only five retirees participated in the related General Assembly.

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<sup>103</sup> Staff Rule 108.1 reads:

1. The Committee of the Staff Association shall be consulted on questions relating to staff welfare and administration, including policy on appointments, promotions and terminations, and on salaries and related allowances, and shall be entitled to make proposals to the Director General on behalf of the staff on such questions.
2. Except for instructions to meet emergency situations, general administrative instructions of directives on questions within the scope of §1 shall be transmitted in advance to the Committee of the Staff Association for consideration and comment before being put into effect.
3. Arrangements concerning staff representation shall be entirely without prejudice to the rights of individual staff members to make representations to the Director General on matters affecting them as individuals.

<sup>104</sup> See the report of the IBSA General Assembly, 13 May 2009, para. 16.

## IV.2 Culture

16. French has been the official working language of the UPU since its creation, and is also the working language of its SA. Both the secretariat and the IBSA have attempted to promote bilingual publications and to provide interpretation during the main meetings.

## IV.3 Scope

17. The programme that the IBSA's GA adopted on 8 June 2010 is indicative of the wide scope of issues dealt with by the IBSA with a demonstrated interest in 23 different aspects of HRM and a quite significant level of work by Committee members<sup>105</sup>.

## IV.4 Limited Facilities

18. This level of activity is all the more remarkable due to the unusual absence in the SRRs of any provision for staff member leave, including for the IBSA Chair, to perform official representational functions and to be supported in their absence from their post by the administration.<sup>106</sup> Thus, the work undertaken by IBSA is often conducted on "nights and weekends," as confirmed to the Inspector, which reduces the quality of professional work and work-life balance.<sup>107</sup> At the SA GA on 13 May 2009, the President of the Federation of International Civil Servants Association (FICSA) "*expressed his surprise that UPU, unlike other United Nations agencies does not permit at least one of the Staff Committee members official free time during working hours to dedicate to staff association matters.*" The management expressed its position in its response to the JIU by stating that "*the time could be seen as sufficient, taking into account the size of the organisation and the fact that the SA is not a union as such. The budget constraints should also be taken into account in this regard.*"

## IV.5 Ethics

19. Another feature which struck the Inspector when reading the first chapter of the UPU IBSA statutes, as well as various speeches<sup>108</sup> and papers produced by the IBSA, was the care for ethics in those documents.

20. In particular, a document signed by the Staff Committee entitled "The Ethics and Principles of the Staff Association Committee," was issued on 27 May 2008, with the following subtitles:

- Ethics;
- United Nations common system;
- Relations with the IB management;

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<sup>105</sup> This point was illustrated in the last para. of the doc. 5 of the SA GA 2008 "Report on the Activities of the SA Committee" (March 2007 to March 2008), which lists 72 meetings as indicated, four one-on-one interviews, 17 memos, and numerous e-mails.

<sup>106</sup> See for comparison purpose JIU/REP/2012/10, Annex IV: Facilities and release for staff representational functions.

<sup>107</sup> *Prima facie*, many normal facilities for a good social dialog and cooperation are present: the SA has some private space, may use printers freely and buy equipment at its own expense, can use the organization's conference services upon request, is authorized to send some Staff Representatives abroad for official meetings (on the SA budget), does not have to seek clearance or prior authorization for any communication with the staff-at-large, and has its own page on the organization's intranet on SA budget.

<sup>108</sup> See, as examples, the first paragraphs of the speech of the Chairman Opa Guiro before the UPU Congress in Geneva (July 2008) and the speech of the Chairman of the SA Committee to the Human Resources Reflection Group, 11-01-2011.

- Collegiality, solidarity and individual responsibility;
- Transparency;
- Confidentiality and the management of files;
- Confidentiality and the right to information;
- Discrimination, harassment and abuse of power (prohibited conduct);
- Defense of members of the Association.

21. The third of those items as a major component of the present report reads:

- *The Committee wishes to work in close cooperation with the IB management in an effort to find appropriate solutions to all matters affecting staff.*
- *While the Committee is aware that the IB management has its own prerogatives, it is duty bound to clearly state its views on matters affecting staff. Moreover it reserves the right to refer those matters to any authority that may help protect the legitimate interest of staff.*
- *Within the framework of the Associations activities, the Association Chairman (or in his absence his deputy) will meet with the IB management (Director General or Directors) only in the presence of at least one other member of the Staff Association Committee.*

22. These points were referred to by the SA Chair during the 2010 SA GA. He stated that these principles “*in no way conflicted with those of the Ethics Office but instead reinforced them.*”<sup>109</sup>

23. The Chair of the Staff Association Committee (SAC) observed that the Union governing bodies “*were approached only after all efforts at the International Bureau to resolve problems had proved unsuccessful.*”<sup>110</sup> The IBSA Chair traditionally speaks before the UPU governing bodies. This practice was formalized by a decision of the Executive Council in 1975, by which the SC obtained<sup>111</sup> the traditionally uncontested right to take part in discussions at Congress and the CA<sup>112</sup> and to be reimbursed for travel expenses. In an unprecedented move during the Geneva Congress in July 2008, the IBSA Chair was restricted from presenting his speech until the end of the session presented as due to time constraints. The prepared message, requested by the DG, was only summarized briefly before the Congress and then circulated to staff.<sup>113</sup>

24. On 30 October of that year, as the November 2008 Council of Administration (CA) approached, the Chair of the CA confirmed to the SA his decision based on the CA rules of procedure, to prevent the Association from addressing any meetings during the CA session. In a reply dated 3 November, which was also indirectly addressed to the DG, the SA referred to Decision CE2/1975 and to its requirement of contribution from all stakeholders and requested to be considered a stakeholder as the document (CA/C3 2008 3/Doc 9) was related to key elements of the HR strategy over the next four years. However, they charged that it contained issues not congruent with the United Nations Common System and SRRs. Without the right to

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<sup>109</sup> Report of the SA GA, 8 June 2010, para. 13.

<sup>110</sup> Report of the SA GA, 8 June 2010, para. 10.

<sup>111</sup> CE 2/1975: « Le Conseil Exécutif approuve la participation des représentants du personnel en qualité d’observateurs aux séances plénières au cours desquelles seront traitées des questions intéressant l’ensemble du personnel. » in CE 1975 –PV1.

<sup>112</sup> As testified before the GA of 13 May 2009 by the Chairman of the ARPUPU, former SA Chair.

<sup>113</sup> Responding to questions at the next SA GA, the Chair of the SC “described in detail the frustrating circumstances under which the Committee’s presentation was delivered to the Congress, the attempts made by the management to prevent the Chair from speaking at the right moment and the pressure exercised on the Committee to allow IB management to access to the text of the speech before its delivery.” At the November 2008 CA it was “thanks to its tenacity and to a specific request made by the United States of America, the Committee was able to intervene” (Report of the General Assembly, May 13<sup>th</sup>, 2009).

speak, SA participation would not have any clear impact. “The SA Committee had to put [in] a lot of effort and fight hard for its right of expression to be respected during the session of this body.”<sup>114</sup>

25. The SA advised the CA to withdraw a document proposed by the DG without consulting the SAC, stating that they preferred “to resolve matters in a consensual manner... before the CA is called upon to make any decision.” If this could not be achieved, the SA asked that its related observations and comments be communicated to all members of the CA, to be considered along with the DG document.<sup>115</sup> Such a memorandum was issued on 13 November 2008, and put forward eight “recommendations to the CA.” This format was likely influenced by the JIU MAR which was presented for discussion in the same session. Further “participation” of staff representatives in the Reflection Group (RG), created by the CA on human resources, is discussed in sub-section VIII.3 below.

## **V. Representation in and representativeness of the UPU IB SA**

### **V.1 Electoral system**

26. The particular system of representation in the UPU IB can be described by the following points. The elections for the membership of the SA Committee are open to all staff members, a provision which prevents the creation of a competing second staff association. The staff members, including those who are not registered as active members of the SA, vote before the GA is held, where only the active SA members vote for the Chair of the new Committee.

### **V.2 SA representativeness in question**

27. The IBSA comprised 213 members as of 13 May 2009, 138 as of June 2011, 134 as of 9 July 2012 (with 79 in the Retirees Association)<sup>116</sup>, and 155 as of 2013. At the June 2011 SA GA, for instance, the total number of participants clearly exceeded the quorum of 46, with 88 participants (including 17 written proxies) at the time of voting representing nearly 60 per cent of the registered staff. Similarly, in 2012, 90 votes were cast by more than two thirds of the registered staff and more than one third of the whole staff (including non-core staff).<sup>117</sup>

### **V.3 Shock of two doctrines on representativeness**

28. At the June 2010 Staff Association GA, SMR were drawn into an ideological conflict between two groups of participants. These groups were, on one side, members who adhered to the doctrine of the DG and its aides on the SA, and on the other, the SA Committee itself led by its Chair. Opposed to the stance of the SA Committee, the former proposed a different model pertaining to the composition and function of the SRB. To be considered officially as representative, the SA was expected to:

- (a) gain the support of and register an overwhelming majority of the staff;
- (b) accept all staff members of the UPU including non-members of the SA at its GA;
- (c) have permanent representatives elected in all the categories of staff identified in its statutes;
- (d) ask all members’ approval before any speech to the UPU Member States.

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<sup>114</sup> Memorandum from the Staff Association Committee to International Bureau staff (16-03-2009).

<sup>115</sup> Letter of the CAC Chair to the Chairman of the UPU Council of Administration, 3 November 2008.

<sup>116</sup> Listes des membres actifs et des membres retraités au 9 Juillet 2012.

<sup>117</sup> Report of the SA GA, 9 June 2011, paras. 1, 42.

29. The report of the SA GA of 8 June 2010 addresses all of those issues:

- (a) *“In reply to the comment that the Association had 145 active members and slightly less than 100 non-members, one member remarked that this represented a high participation rate by current standards.”*<sup>118</sup>
- (b) *“To the reproach that non-members were excluded from the General Assembly, [the] Association Chairman replied that he was only applying the Statutes and that any staff member was free to join the Association or withdraw from it at any time. The Association’s strength and legitimacy were based on compliance with rules. The Chairman of the Retired Staff Association again reminded members that, in all associations, regardless of their nature, only members took part in the General Assembly.”*<sup>119</sup>
- (c) *“The matter of amending the Association’s Statutes was then raised. The two Association Chairmen and a member pointed out how well thought out the Statutes were, covering all circumstances and ensuring staff representation: annual election, extraordinary general assembly, possibility of holding supplementary elections of representatives after the General Assembly if Committee membership is not complete, and the possibility of a staff member joining the Association at any time or resigning with immediate effect. They felt that it was this coherence that ensured the future of the Association Committee. Thus, if it were obligatory to have each post or a minimum number of posts filled, it would be possible, through outside pressure to have certain representatives resign, to prevent the Committee from functioning normally.”*<sup>120</sup>
- (d) *“To criticism about the absence of any consultation of members before communication with the bodies, the Chairman replied that a Chairman had never conducted a consultation before delivering a speech to the bodies, a fact that was corroborated by the Retired Staff Association Chairman. The Chairman recalled that [the Staff Association] Committee was elected yearly. If members were not satisfied with the Committee, they could elect another one the following year or even convene an extraordinary general assembly to hold an early election. One member pointed out that this was precisely how an elected body was evaluated. The proposal to assess the Committee by means of a questionnaire was therefore rejected.”*<sup>121</sup>

#### **V.4 Questions on staff representativeness and survey’s results interpretation**

30. One year later, however, a survey questionnaire was organized by the administration, at first with the help of the SA. Two questions were proposed to *“determine the employees satisfaction with respect with concrete actions of the association which represents them. The third question asked whether the respondents were satisfied with the fact that not the entire UPU staff is represented by that association.”*<sup>122</sup> They were required to rate their agreement on a scale from zero (very unsatisfied) to five (very satisfied) with the three following affirmations:

- a) I am satisfied with how my interests are represented;

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<sup>118</sup> Report of the SA GA, 8 June 2010. Paras. 1 and 31.

<sup>119</sup> Ibid, para. 32.

<sup>120</sup> Ibid, Para. 21.

<sup>121</sup> Report of the SA GA, 8 June 2010, para. 17.

<sup>122</sup> Values and Motivations of Employees of International Organizations, Results for the Universal Postal Union, June 2011, page 19.

- b) I am satisfied with what the association does for me and my colleagues;
- c) I am satisfied that certain categories of staff are not represented by the association.

The average rates of agreement were 2.64, 2.70, and 2.70, respectively.

31. The Inspector finds it troubling that while the rates of agreement were above average, the authors of the study commented on them in the following manner: “*Without knowing precisely the social climate within the organization, it is nonetheless worth noting that support for the staff association does not seem to be unequivocal among respondents.*” Further, the authors stated that they were “*mostly troubled by the fact that this association does not represent the entire staff working within the UPU.*”

32. Surprisingly, the academic team did not question whether SU support should be unanimous in a democratic system of representation. It also did not compare its findings to the much lower rates of union registration in Europe including in such other international organizations as the United Nations Office in Geneva, where the quorum for General Assemblies regularly fails to be met. Additionally, it effectively ignored the social climate within the UPU, which was particularly tense from 2008 to 2010.

33. The Inspector is troubled to see in the above analysis an echo of the written comments he received in reply to his questionnaire by the UPU management insisting on alleged divisions: “*It should also be noted that this period was also characterised by a strong crisis of representation in the SA – a drop in membership, less than half of the members required to constitute the Committee of the Staff Association, high tension between some members of the Committee of the Staff Association and its Chairman, personal open attacks led by the Committee and the Chairman against several staff members, tensions between staff members and the SA committee, etc...*” The Inspector subsequently received more direct comments from the UPU management on the draft of the present note stating that it contained “*no analysis of the reality of the situation and the role of the Staff Association at the time of the crisis*” (sic). Those comments noted:

- *The lack of legitimacy among staff;*
- *Very poor participation of staff in the SA (as shown for example by number of votes in the SA elections);*
- *Very low level of representation in the SA committee: only 3 seats occupied against 7 at the time of the crisis and for the elections in 2011;*
- *The lack of legitimacy and accountability of the SA representatives: less than 20 per cent of staff actually voted for the current SA Chair;*
- *The practices and methods of the SA committee member at the time (2008-2010): personal attacks on staff members, pressure, threats, personal agenda, requests for promotion or renewal of contracts for the members of the Committee, etc... such behaviour was officially criticized by a large number of staff through a communication to the Council of administration in 2009;*
- *The results of the independent study from Geneva University: response to the questions given by the SA itself shows the lack of trust among staff;*
- *SA not even respecting its own rules of governance (an example is that the SA does not organize general assemblies in a timely manner, limited information given to the members etc...).*<sup>123</sup>

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<sup>123</sup> The relevant art 22 of the SA Statute “Consultation of the Members Association” reads (22.1) differently: “*The members of the Association **may** be consulted by the Committee on any issue following a decision of the General Assembly, a committee decision or a written request signed by at least one tenth of the association membership and handed to the Chairman or, in his absence, his deputy.*”

## **VI. Evolution of SMR**

### **VI.1 Soft Opposition in 2007**

34. In 2008, the DG reviewed the IB HRM Strategy he had presented to the 2006 CA, integrating in it Mr. Leavey's (his predecessor) decision to ensure adequate social coverage (sickness and pension) for all employees with a contract of more than six months, including extra-budgetary and non-core staff. Following the 2007 CA, the latter's employment status became more secure, thus putting an end to the previous lack of job security.<sup>124</sup> In 2007, even after favoritism had been identified as an issue, in the staff survey (see para. 5 above) SMR appeared relatively positive between the IB SA and management led by a new Executive Head. This was reported to the SA GA in 2008 by the then SAC:

*"The Committee has noted that its opinion is being increasingly sought with respect to the issues dealt with by the DRH. The Committee is given a voice, and account is usually taken of its comments in the decision-taking process. The Committee is also consulted prior to meetings with the IB management. It has demonstrated that it is an effective partner, and that it is able to propose solutions and give useful advice. During 2007 and in early 2008, the Committee has dealt with some very important issues. Its members have done their utmost to defend staff interests, as and when decisions have been taken."*<sup>125</sup>

35. The report also highlighted the SAC's involvement in the preparation of new rules by the DRH for non-core staff, who were promised that they would be kept informed and allowed to negotiate the related salary scales although this did not happen. The Staff Committee alleged that on a number of issues its positions were "disregarded" by the management. As a result of challenges to the leadership, on 20 March 2008 a new Staff Committee Chair was elected with 93 votes, thus opening a new era in UPU's SMR.

### **VI.2 Public Conflict in 2008 and 2009**

36. Due to its strict ethical views (see above), the new Committee was unable to compromise on a number of issues in relation to SMR. This is supported within the definition of governance as "the exercise of effective, honest, fair, transparent and accountable power; an exercise of power in which the rule of law is given priority."<sup>126</sup>

37. This definition was included in a presentation on 30 July 2008 for the Member States in Congress, and was previously disclosed to the EH upon request. While bearing a noted ethical perspective, it also contains a critique of the IB management. It clearly affirms that "facts and practices demonstrate that the IB has at present deviated from the United Nations common system" by recently introducing "a text of rules called 'non-core staff' which fails to comply with a fundamental principle of the Common System which requires 'equal pay for equal work'."

38. It also outlined eight points regarding HR management and summarized why the SAC considered the IB management to conflict with the aforementioned principles of good

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<sup>124</sup> Briefing note for the Reflection Group on Human Resources - CA C3 2009.1-Doc.18, Annex 2, para. 4.

<sup>125</sup> Report on the Activities of the Staff Association Committee, SA GA 2008-Document 5.

<sup>126</sup> Intervention of the Chair of the IB SA Committee before the congress of UPU, Geneva, 30 July 2008.

governance. This initiated two years of an intense ideological conflict between the heads of the UPU staff and management, who were both anxious to attract the support of the Member States to their respective views.

39. On 13 November 2008, the SA presented a nine page memorandum<sup>127</sup> to the Council of Administration (CA) in response to its critical reaction to the series of proposals made to the CA by the IB DG.<sup>128</sup> While outlining its strong support for the observations of the JIU MAR, particularly on “the recommendations as regards HR management,” the SA did not share its optimism regarding the future potential benefits of some of the measures recently introduced in UPU, such as the non-core staff rules, the performance evaluation system, and the “assessment centre.”

40. Every party was prepared for the November 2009 debate on HR at the CA C3; The DG through his briefing note for the Reflection Group on Human Resources (RGHR)<sup>129</sup> and the SA through a structured speech which he gave on 10 November 2009 presenting the issues raised. His speech showed obvious instances of overlap with some of the observations and recommendations of the JIU,<sup>130</sup> which were also looked at by CA C3.<sup>131</sup>

### **VI.3 Peak Crisis in 2010**

41. In June 2009 there was a tense exchange of letters between the SAC Chair and the EH. The Chair argued that favouritism had been an issue in selection and promotion, while the latter insisted that he had respected all applicable rules but did not address any specific case. Furthermore, the EH denounced the spread of rumours as false and disrespectful towards the persons concerned, although less than one month later the SAC Chair confirmed their truth by pointing to an Internal Memorandum.<sup>132</sup>

42. In 2010 the conflict between the two parties escalated to more serious accusations, fuelled in part by mutual dislike and mistrust. Accused of “personal attacks” by three members of the 2010 SA General Assembly<sup>133</sup>, the SAC Chair replied that *“there were no personal attacks made on the competence or morality of any IB staff in the documents distributed. What was denounced, in the general interest, was the breaching of rules of law and of ethical conduct. In such cases, the Committee had a duty to act.”* Recalling the results of the 2007 survey, he said that *“these prohibited practices often pitted individual interests against the common interest and it was the Committee’s duty to call such practices into question. Only bad practices were being denounced, supported by proof. There were no personal attacks. Moreover, the Chairman and a member recalled that Committee members were themselves the target of numerous attacks which, in some cases, were made to curry favour with the Executive Office. The Chairman also pointed out that no one had yet demonstrated that what the Staff Association had denounced was not true.”*<sup>134</sup>

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<sup>127</sup> Human Resources Management at the International Bureau, IBSA, 13-11-2008.

<sup>128</sup> In the document CA C3 2008.3-Doc 9.

<sup>129</sup> CA.C3/2009.1, Doc 18, Annex 2.

<sup>130</sup> CA C3, 2009.1-Doc 20.

<sup>131</sup> CA2010.1- Doc 9 Report of the Chair of Committee 3.

<sup>132</sup> IM 65/2009 dated 1 July 2009 reclassifying from P4 to P5 the post of Chef de Cabinet, to which the holder had been appointed by IM 20/2006 at the P4 level. The environment and sustainable development programme was annexed to the Cabinet to justify that reclassification.

<sup>133</sup> Report of the SA General Assembly, 8 June 2010, para. 15.

<sup>134</sup> Ibid.

43. As part of its questionnaire towards all social partners throughout the specialized organization of the common system, JIU raised the following question: “was there any crisis in SMR in your organization in the years 2009-2011? If yes, please give specific examples (events, dates, description of issues, actors involved, actions taken and results).” It received the following reply from the UPU IB management (integral quotation):

*“The Committee of the Staff Association (composed of 4 members instead of the 7 required) accused the EH of favouritism and misinformation to member countries on HR related matters (nominations/promotions).<sup>135</sup> One Committee member retracted from this action shortly afterwards. Without consulting or even informing the members of the Staff Association, the 3 remaining members of the Committee wrote to the Chairman of the Council of Administration which gathered all the parties involved for a dialogue and a fact-finding exercise. After this exercise, all the accusations were dropped by the Committee of the Staff Association and as a constructive gesture, the EH accepted to withdraw any legal actions that he had personally launched as well as any further disciplinary actions. A joint statement was issued by both the EH and the Chairman of the SA Committee and communicated to the staff and to the member states.”*

44. In a part of its long reply to the JIU questionnaire (on Q3), the SA version of the mediation is different: *“A mediation process was undertaken by the CA Chairman. The Committee did not withdraw any of its allegations but, with a view to breaking the deadlock in the hope of reconstructing some form of social dialogue, a compromise was found. [...] The joint declaration was subsequently manipulated by management who had committed to joint problem solving and abidance by the rule of law but kept on acting as before. The Staff Association kept to its commitment.”*

45. The serious connotations attached to the terms “accusation,” “action,” “retraction,” and “mediation” were used here in their ultimate legal meaning, taking into account the legal context created previously by a succession of events, reported by the SA replying to the JIU questionnaire:

46. *“In the POC 2010<sup>136</sup>, the Committee Chair presented briefly its comments to the HRRG regarding the HRRG work and JIU’s suggestions. Shortly after the Postal Operations Council (POC), in view first of the continuous disregard of the rule of law by the IB’s General Director – a process accelerating to pre-empt the HRRG work – secondly of recently found evidence on the improper treatment of an alleged sexual harassment case, the Committee asked the Chair of the CA for an independent investigation to be carried out on the General Director in view of its disregard for the rule of law. This was done on the basis of resolution CE 1/1977”*(Conditions of service of the Director General and the Deputy Director General). Such a request was made on behalf of the Committee in a letter to the Chair of CA (6 May 2010), the content of which was shared with its members.

47. As a reaction, the DG’s personal counsel sent on 17 May 2010 to each member of the SA Committee a letter threatening them with penal action for slander. After another meeting had allowed for discussing a number of concrete issues, a Joint Declaration was signed on 30 July and delivered to the staff, informing them of the commitment of the parties to work according to their respective responsibilities together in a spirit of conciliation, mutual respect and confidence in the general interest of the Union and the IB staff members.

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<sup>135</sup> See below re: other HR issues.

<sup>136</sup> 2010 Meeting of the UPU Postal Operations Council.

48. However, several days before the session of the November 2010 Council of Administration, both the signatory Chair of the IB SA and the Swiss Internal Auditor, who had emitted criticisms on the HR policy of the EH,<sup>137</sup> converging with the JIU and SA observations were given a “golden shake-hand,” and disappeared overnight at the surprise of many: they would not be in a position to repeat or defend in front of the Member States the criticisms levelled at the EH in their respective documents.

49. To ensure the ongoing fight would not be reduced to a conflict of personalities, as implied in the above reply to the JIU questionnaire, the new SAC Chair published on 5 November 2010 a set of ethical and political principles entitled “Communication to the Human Resources Reflection Group.” This document emphasized respect for the rule of law and outlined ways in which disagreement with the EH had been dealt with.

50. Assuring the continuity of experience, the new tone was moderate and inclusive. These elements would characterize the discussion within the SA between 2011 and 2013 under the three other Chairs of the Staff Committee. The change in relations was exemplified by the DG’s invitation to the ceremony organized by the SA on 1 January 2011. The SG Chair courteously stated that “it is our firm conviction that we have a duty not to forget what transpired if we are to avoid making the same mistakes in the future,” a lesson learned which is endorsed by the Inspector. No significant change, however, was visible in SMR for the years 2011 and 2012.

## **VII. Substantive Aspects of SMR at UPU**

### **VII.1 Pioneering role in the discussion of non-staff issues?**

51. Within the United Nations system, the UPU social partners (staff and management) accepted the emergence of non-core staff at the UPU, some of whom had varying levels of managerial power. The IB management proposed a new labour force, considered more economic and flexible (including in terms of SMR) and used in particular within the Postal Technology Center (PTC) and the Express Mail Service (EMS) unit.<sup>138</sup> The primary document detailing this subject is the Memorandum by the EH to the CA in 2007,<sup>139</sup> which proposes in its annex a new set of rules for non-core staff. The lack of control of the current Staff Committee’s involvement in establishing those rules was later regretted by its successors.

52. In his speech prepared for the Geneva Congress (30 July 2008), the SA Chair attacked the Memorandum, noting that “these new rules imply that staff with equivalent responsibilities and duties receive different wages and benefits.”[...] Some posts are classified and others are not. Some recruitment actions are made through the Appointments and Promotion Committees (where the SRB is represented) and others are not. Some staff members are remunerated on the basis of salary scales established by the United Nations common system and others are not. Some staff members have international rights and benefits and others are excluded from these rights.”

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<sup>137</sup> See CA C3 2009.1, Doc 23, Annex 1.

<sup>138</sup> See footnote 52.

<sup>139</sup> CA 2007, document 6c, Human resources measures taken and planned at the International Bureau and developments in the United Nations common system.

53. Two years after the Congress, the rules governing non-core staff remained a serious problem according to the SA Chair due to non-compliance with the United Nations common system, unequal treatment of staff members and lack of job security.<sup>140</sup> The Human Resources Reflection Group (HRRG)<sup>141</sup> attempted to address the issue and prepared a table comparing the core and non-core regimes.<sup>142</sup>

54. The SAC report of activities from 9 June 2010 to 8 June 2011<sup>143</sup> identified several issues:

*“The term “non-core” remains unclear, since it is used to describe various situations. Does a given non-core staff member have access to the benefits provided to staff covered by the Staff Rules and Regulations? Is he or she classified? If so, is this classification according to the United Nations common system or according to the Cooperative’s system<sup>144</sup>, which is not subject to any measures designed to guarantee transparency? Variation in the content of contracts has also been noted. Despite the fact that transparency is essential to good governance, the promotion system and the restructuring carried out do not appear to be transparent. The Committee has referred this matter to the DRH in order to be made aware of the applicable and applied rules regarding restructuring, the classification of posts and promotions in the Cooperatives, and is awaiting an answer.”<sup>145</sup>*

*“Compliance with the provisions of the United Nations common system remains the Committee’s key focus. This involves gradually bringing the various non-core contracts into line with the common system. As the CA has decided against addressing non-core status again, the Committee is working with management to explore options for reducing inconsistencies between the different contractual arrangements. The issue has been submitted orally to the DG, who asked that realistic proposals respecting budget constraints be presented to him. The differences between benefits provided to core and*

<sup>140</sup> Report of the SA GA, June 8<sup>th</sup>, 2010, para. 11.

<sup>141</sup> Chapter VIII of the present report is dedicated to this Group.

<sup>142</sup> CA C3, HRRG 2011 2, document 3, annex 03: Key areas of terms of employment for core and non-core staff of the UPU IB.

<sup>143</sup> SA GA 2011, Document 4.

<sup>144</sup> Two cooperatives are attached to UPU: the Express Mail Service (EMS) and the Postal Technology Center (PCT). EMS is an international postal Express Mail Service, for documents and merchandise, offered by postal operators of the Universal Postal Union (UPU) (<http://www.ems.post/operators>). According to the Report to the 25<sup>th</sup> Congress of 2009-2012 UPU activities, (Congress doc 14) par 164, in 2012 the EMS Unit comprises 12 staff members in three teams: Audit and Measurement, Regional Coordinators and Administration. The EMS Unit is an integral part of the IB and collaborates with the different IB directorates to improve EMS and help improve other UPU products and services.

	January 2008	January 2009	January 2010	January 2011	January 2012
EMS Cooperative membership	146	153	158	163	170
EMS Unit staff	11	12	12	11	12

According to para. 167 of the same report, the Postal Technology Centre (PTC) is also “an integral part of the International Bureau,” playing an important role in its activities as the UPU’s technological arm. ... Between 2009 and 2012, the PTC saw growth in all its activities. The PTC’s workforce has increased by 15% since 2009, and the number of countries belonging to the Telematics Cooperative increased by 13% over the same period.

PTC Unit staff	2009: 36	2010: 45	2011: 45	2012: 51
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<sup>145</sup> SA GA 2011, Document 4, para. 14.

*non-core staff are contained in Annex 1. The next Committee should ensure that concrete proposals are developed as soon as possible.*"<sup>146</sup>

55. In its final report <sup>147</sup> to the CA C3 (Finance and Administration) the HRRG observed that:

*"The IB Staff Association made some pertinent observations about core and non-core staff employment contracts in respect of the presentation by Team 2 regarding comparison of the terms and benefits for core and non-core contracts. One area of concern was the ambiguity of the application of terms and benefits for many other non-core contracts, such as certain QSF, EMS Cooperative and PTC positions. Given the complexity and diversity of employment contracts that exist within the IB, an in-depth analysis based on a larger sampling to determine whether the existing terms and conditions of core and non-core contracts had been applied fully and consistently should be undertaken by the CA in the 2013-2016 Congress cycle."*<sup>148</sup>

*"Regarding the gaps that exist between core and non-core contracts, in particular the differences in financial benefits such as removal expenses, travel expenses, repatriation grant, education grant and mobility and hardship allowances, questions raised by members included the basis for the differences and whether there was a need to harmonize the terms and conditions. For this purpose, the guiding principles for the formulation of the terms of employment in the IB should be reviewed, bearing in mind budgetary considerations and the issue of bringing IB employment conditions as close as possible to international best practices, such as those of the UN system or other UN specialized agencies, and the ILO principles of "equal pay for equal work." This exercise is expected to be expansive and intensive, and hence would best be undertaken by the CA in the 2013-2016 Congress cycle."*<sup>149</sup>

56. The same challenges regarding workers who were qualified as non-staff also emerged among many organizations of the common system. After publishing two separate reports<sup>150</sup> in 2012, the JIU intends to publish a complete report exclusively dedicated to non-staff issues in early 2014 with the approval of the CEB secretariat.

## **VII.2 Other HR Issues**

57. In its memorandum for the CA 2008,<sup>151</sup> the SA proposed eight recommendations on the major HR policies (which are legitimately at the heart of SMR). In 2009, the SA Chair presented a concise speech in form of questions for the CA C3 which covered the issues relating to the same proposals including:

- The distributions of roles, responsibilities and competences between the CA and the DG;
- the restructuring exercises;

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<sup>146</sup> SA GA 2011, Document 4, para. 15.

<sup>147</sup> CA C 3, HRRG 2011.2, Document 3a, Rev. 1.

<sup>148</sup> CA C 3, HRRG 2011.2, Document 3a, Rev. 1, para. 22.

<sup>149</sup> CA C 3, HRRG 2011.2, Document 3a, Rev. 1, para. 23.

<sup>150</sup> JIU/REP/2012/10 entitled *Staff Management Relations in the United Nations specialized agencies and the common system*, chapter II: Challenges in distinguishing between staff and non-staff (paras. 12-27) and JIU/REP/2012/5 entitled *Review of Individual Consultancies in the United Nations System* published by the United Nations as A/68/67.

<sup>151</sup> Human Resources Management at the International Bureau, IBSA, 13 November 13 2008.

- appointments and promotions through a competitive process;
- the regularization of non-core posts on the regular budget;
- the geographical distribution and gender balance;
- the transparency of information on HR;
- the alleged favouritism within the IB.<sup>152</sup>

58. Two years and two chairmen later, on 29 July 2011, the SA published a nine page report entitled “Observations of the International Bureau Staff Association on Human Resources Management” which was sent to the Chairs of the HRRG and of the three sub-groups. The SA thanked the HRRG members for “allowing [them] to take part in the Group’s work as observers.”<sup>153</sup> Supporting their claims with evidence, they continued that “a number of dysfunctions occur[ed] within the framework of institutional relations with the DRH, thus potentially imperilling still fragile Staff-Management relations” such as the lack of transparency on various HR issues.

They called for:

- the possible restoration of the CA’s authority vis-à-vis the IB DG to monitor and review (A);
- transparency (in C);
- the abidance of rules for recruitment, promotion and classification (in D);
- the containment of “non-core contracts,” including the gradual reduction in the differences in benefits (in E);
- respect for the prerogatives of the CA in the creation and abolition of posts (in F);
- improvements in the clarity of appeal procedures regarding performance evaluations, in particular of a text indicating the follow up of complaints (in G);
- awareness of the implications of contracting-out of the internal audit function to a private organization and of non-implementation of Ethics Office functions; the resolution of these due issues relating to process and administration of justice is a matter of utmost urgency (in H);
- the cessation of hiring interns who are relatives or personal connections of members of staff (in I);
- a proactive approach to gender balance (in J);
- a statistical part (in K) on changes in staff numbers with detailed breakdowns (geographical origin, types of contract, etc...) since 2005. The text ended (in L) with the wishes of the SA for the continuation of the HRRG particularly in view of the “lack of an internal audit function or an audit function shared with other United Nations organizations that may carry out independent investigations, and a functioning ethics office.”<sup>154</sup>

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<sup>152</sup> Letters were sent by the SAC Chair to the EH, including one on 16 June 2009 outlining a number of alleged cases (non-exhaustive) with names of “protected” people and calling for an appointment to discuss them. The reply sent on 19 June 2009 was also notable for its brevity. It protested against the tone used by the SA Chair and affirmed that all rules were respected, and stated that the reclassifications, made with the assistance of an independent external specialist, as well as the appointments and promotions had strictly followed the staff rules. A new letter of the SA Chair to the EH on his alleged “favouritism,” dated 15 July 2009, followed the “communication de service” n°65/2009 dating from 10 July 2009 which upgraded two positions in the EH executive office.

<sup>153</sup> Framework for human resources management, [icsc.un.org/resources/pdfs/ppd/hrmframe/ICSC\\_hrm\\_eng.pdf](http://icsc.un.org/resources/pdfs/ppd/hrmframe/ICSC_hrm_eng.pdf).

<sup>154</sup> The CA approved in 2009 the mandate of the Ethics Office which was, with its different aspects, the object of recommendations one to seventeen of the 2008 JIU MAR. Most of them were considered either implemented or accepted in October 2010 in annex 2 of the document CA C.3 2010.1-\document 18, which largely reproduced the report of the Ethics Office to the CA C3.2

## VIII. The Human Resources Reflection Group

### VIII.1 The JIU and the ILOAT sent independent but converging alerts to the UPU Member States.

59. Significantly, in its MAR of UPU<sup>155</sup>, JIU formally made recommendations in the area of oversight to:

- establish an ethics function;
- establish a formal evaluation function;
- in-source the internal audit and investigation function (...) or alternatively increase the resources for these functions;
- consider submitting for review and approval an amendment to the General Regulations (...) providing for a competitive selection process and for a rotation of the external auditor.

60. JIU recommended, inter alia, that Human Resources department :

- limit the transfers between budget chapters after their adoption;
- discontinue the practice of granting personal promotions;
- launch a policy that proactively pursues gender balance and equitable geographical distribution;
- ensure that all reclassifications of posts within and to the Professional level be approved (by the governing body on the subject) through the budget process and not after implementation.<sup>156</sup>

61. In the same spirit, judgment N° 2747 of the ILOAT<sup>157</sup> ruled that the competence of the DG to organize, manage and direct the IB (art.112.1 of the General regulations of the UPU) did not include the power to create new posts or abolish existing posts, even on a provisional basis pending ratification by the CA. In his briefing note to the CA, the DG condemned the move, stating that “given that the CA meets only once a year, the procedure called for under article 102.6.15 as interpreted by the Tribunal seems rather onerous.”<sup>158</sup>

62. The JIU report likely had a trifold influence on the SMR by:

- confirming through its own survey the results of the 2007 survey, and in particular in casting doubts on the regularity and fairness of some HR practices;
- indirectly encouraging the IBSA to vocalize their concerns and in helping some Member States to take those allegations seriously regardless of the opposed views of the IB DG;
- Committee 3 (Finance and Administration) of the CA held on 9-10 November 2010, took note of the actions carried out in the area of human resource management which were in line with the recommendations of the JIU in the area of human resource management. It approved the proposed policy for protecting whistle-blowers and individuals cooperating in duly authorized audits or investigations, approved the proposed harassment prevention policy, approved the addition of new paragraphs 5 and 6 to staff regulation 1.5, and instructed the International Bureau to study the conditions for implementation of the first recommendation and make recommendations to the 2011 CA (CA C 3 2010.1–Doc 14.Rev 2). It also took note of the document, approved recommendations 1, 6, 7, 8, 16 and 17 in the JIU report on ethics in

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<sup>155</sup> JIU/REP/2008/1: Review of the Management and Administration of the Universal Postal Union.

<sup>156</sup> The observations on the JIU MAR can be found, for the IB Management in the doc. CAC 3 2009.1-document 20 and in CA 2009.1-document 8 and for the IBSA in CA 2008.3 Doc 8 Annex 1; those of the C3 in CA 2010.1 document 9, paras. 8 to 10.

<sup>157</sup> From 2008 to 2013, the ILOAT had to pronounce itself on 9 cases, a high number for the rather small UPU staff. Only 3 of the corresponding complaints were dismissed.

<sup>158</sup> CA C3 2009.-document 18, annex2, para. 10.

the common system, and noted the recommendations addressed by the JIU to the DG of the IB (CA C 3 2010.1–Doc 18).

### **VIII.2 Creation of the Human Resource Reflection Group**

63. In its November, 2008 session, Committee 3 (Finance and Administration) of the CA “stirred during deliberations on personnel issues at the 24th Congress in Geneva [...] and concerned about a series of IB proposals for a major reorganization of the IB,”<sup>159</sup> established, if not the working group desired by the SA (in its recommendation 5), at least two “Reflection Groups” (RGs). One of these groups would be in charge of the HR issues within Committee 3, while the other would study the possibility of setting up a committee of independent external experts tasked with monitoring and addressing questions of governance as identified in the various audit reports (both internal and external).

64. Following the support of Committee 3, the entire CA voiced their support for this initiative and their respective composition, principles and mandates were published.<sup>160</sup> “Throughout most of 2009, however, little progress was made in forming the Group, mainly due to a lack of secretarial support.”<sup>161</sup> The EH remained largely unenthusiastic, although he did note his consideration for the fact that the RGs were meant to help facilitate his actions.<sup>162</sup> However, he favoured the limitation of their cost<sup>163</sup> and status, and labelled them as “not official bodies of the CA” but rather “project groups” as foreseen in the CA’s rules of procedure. The report of the Chair of Committee 3 ensured that the mandate of the new RGs “should not lead to any weakening or limitation of the role of the DG as the organization’s most senior official.” The DG provided more valuable information to the Groups in the next year,<sup>164</sup> and his efforts to ensure a more efficient management of HR were also acknowledged by the CA.<sup>165</sup>

### **VIII.3 The Human Resources Reflection Group as a Tribune?**

65. The need for further participation of staff representatives in the Reflection Group on Human Resources (HRRG) was not recognized by a number of delegations who were apprehensive of tough new policies.

66. In late April 2010, the IBSA sent a detailed six-page letter to the HRRG entitled “The International Bureau Human Capital, and Strategic Considerations.” This document, published immediately prior to the peak of the SMR crisis described above in section VI.3, condemned certain actions and proposed eleven recommendations. After the SA Chair was forcibly replaced, on 5 November 2010 communication presenting the principles meant to guide its participation in the work of the HRRG was reopened with the HRRG and signed by all the members of the SA Committee.

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<sup>159</sup> CA C 3 HRRG 2011.2–document 3a., rev. 1, para. 3.

<sup>160</sup> CA C3 2009.1, document 18, annex 1.

<sup>161</sup> CA C3 HRRG 2011.2. document 3, final report of the HRRG, para. 3.

<sup>162</sup> CA C3 2009., document 18, annex 2, para. 6.

<sup>163</sup> CA.C3/2009.1, document 18, annex 3, para. 1.

<sup>164</sup> See CA C 3 GRRH 2010.2, document 2b, annex 2, Human Resources documentation supplied by the International Bureau to the Human Resources Group.

<sup>165</sup> CA C 3 2011.1, document 27, para. 14. “Besides the International Bureau's work on transparency and the time devoted to discussing these issues, it should be noted that the budget for staff training increased from 0.5% to 1%, and professional training management was introduced at the IB.”

67. Fifteen months and one chairman later, on 29 July 2011, the SA issued the “Observations of the International Bureau Staff Association on Human Resources Management,” in which they retained the same themes and proposals (see section below on the substantive aspects) but in a smoother tone. After thanking them for allowing the SA to participate despite its limited observer status, the SA Chair severely regretted the lack of an invitation to its April 29 April meeting.<sup>166</sup>

68. Taking into account their role in the creation of the HRRG and the fact that working conditions and other such staff-related concerns were the focus of HR, SA representatives felt that they represented a viable source of information for the Group as observers but were met with defiance.

69. A final restriction upon the SA’s right to freedom of expression towards the Member States at the CA and Congress, as adopted in 1975<sup>167</sup>, was established in 2012 at the Doha Congress. At this Congress, the SA Chair’s status of observer was replaced with that of “invitee,” meaning the SA Chair would now have to fund his travel budget to the Congress either out of pocket or through the SA budget for travel and DSA. But, rightly, no such change appears in the amended texts of the Congress on observers.

#### **VIII.4 The HRRG Accomplishments and SMR<sup>168</sup>**

70. The HRRG, following seven meetings both in person and via conference call in 2010 and 2011, submitted the following decisions and recommendations to the 2011 CA for adoption:<sup>169</sup>

(a) The CA should instruct the IB to make every reasonable effort to communicate vacancies for professional posts both internally and externally, for example by issuing circular letters to member countries or Internet postings;

(b) The CA should instruct the IB to provide a report on the progress it has made on publishing the staff regulation changes adopted by the 2010 CA concerning whistle-blowers’ protection and harassment prevention, and on developing and publishing the administrative instructions to support these changes;

(c) An ombudsman function for UPU staff should be established in the context of conflict-resolution mechanisms;

(d) The CA should take note of its decision, taken at its 2010 session, that the Human Resources and Social Relations Directorate and the Finance and Strategy Directorate should remain as two separate directorates within the IB structure;

(e) The CA should instruct the IB to provide an annual report to the CA on personnel matters. This report, which could be based on the model of a similar annual report produced by the International Telecommunication Union (ITU), should contain information on regional and

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<sup>166</sup> The SAC Chair suggested that the following comments could be annexed to the HRRG activity report: “The representatives of the Staff Association, who did not take part in the HRRG meeting on 29 April 2011 owing to the lack of an invitation, wish to indicate the following: The reason why the Staff Association representatives were not present at the meeting was not the reason given, i.e. ‘good Staff-Management relations,’ but simply the fact that the Staff Association representatives had been asked to leave the room at the beginning of the previous meeting during the CA 2010, and were not subsequently invited to take part in the meeting in question on 24 April 2011.”

<sup>167</sup> Décision CE2/1975, représentation du personnel. Le Conseil Exécutif approuve la participation des représentants du personnel en qualité d’observateurs aux séances plénières au cours desquelles seront traitées des questions intéressant l’ensemble du personnel. (CE-1975 PV 1)

<sup>168</sup> From CA C 3 HRRG 2011.2, document 3, final report HRRG.

<sup>169</sup> CA C3 GRRH 2011.2, document 3a, rev 1, lightly modified in the definitive version of CA C3 2011.1, document 23, rev 1.

gender distribution of IB staff, promotions and appointments, nationalities of professional-level staff, forthcoming retirements, and other details of interest to CA members. The report should also include the IB organizational chart in a simplified format, if possible on two pages, showing the names of the incumbents and the levels of the posts;

(f) The CA should instruct the Director General to ensure that member countries have the necessary information about the areas of responsibility of each IB professional-level staff member and his or her contact details (e.g. telephone numbers and e-mail addresses). This information could be made available on the UPU website;

From examination of the 2008 Joint Inspection Unit review of IB management

(g) The CA should take note of the decision by the IB to discontinue the practice of granting personal promotions (recommendation 4 of the 2008 JIU review);

(h) The CA should take note that the UPU budget for 2012 includes resources for training equivalent to at least 1 per cent of the budget (recommendation 6 of the 2008 JIU review). The CA should instruct the IB to make every reasonable effort to communicate vacancies for professional posts, both internally and externally, for example by issuing circular letters to member countries or Internet postings.<sup>170</sup> The Council of Administration in 2011 approved a draft resolution on the general nature of human resources based on the work of the HRRG.

71. The UPU Member States were in fact inviting the present and future IB EHs to:

- ensure more *transparency* in the conduct of the HR policies and actions, for the sake of internal and external stakeholders (Member States, staff members and external candidates);
- give to the CA members the means to really implement their oversight role on the HR issues, thus avoiding the main reasons for SMR tensions;
- substantively increase resources for training to keep the staff prepared as regards new cultural, technological and structural challenges;
- help ensure the respect of ethics;
- counter fears preventing staff members from denouncing misconducts at all levels through the establishment of a harassment prevention policy and whistle blowers protection;
- Establish mediation through the creation of an ombudsman, as a buffer between the SMs and the management.

72. While protecting the reputation of the previous EH, the Member States had understood well that the re-establishment and maintenance of the rule of law was at stake as regards SMR in UPU. They should be vigilant in this respect.

## **IX. The way forward ...by anticipation**

73. The resolution of SMR can be attributed to the change of tone discussed earlier as well as the acknowledged seriousness of the SA's contributions to the HRRG. The official message sent to the Member States under "relations with the staff association" in the "2011 Annual report on Human Resource Management and Activities in the UPU IB" demonstrated a significant change in SMR quality when compared with its previous (2010) version.<sup>171</sup> However, it was copied verbatim from a memo of the SG to the CA C3<sup>172</sup>, who had a clear interest in reassuring the membership during the SMR conflict. It reads:

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<sup>170</sup> A previous version stating "with a view to ensuring transparency," had been diplomatically left out.

<sup>171</sup> CA C 3 2010.1, document 14, rev 2, "Memorandum (to the CA) by the Secretary General." This document acknowledged a difficult phase for the relationship between the IB Management and the IB Staff Association.

<sup>172</sup> CA C 3 2011.1, document 20, par 2 and 3.

4: In 2011, the Human Resources and Social Relations Directorate (DRH) and the Staff Association established a relationship of constructive and effective collaboration based on dialogue, mutual respect and trust.

5: It should be recalled that both parties are committed to improving the working conditions of all staff members and to ensuring their well-being in the broadest sense of the term. They share a desire to enable IB staff to develop in a professional environment that is free from any form of harassment. For these reasons, the DRH continues to consult the Staff Association to discuss various human resource issues.

74. It was followed by a 2012 report<sup>173</sup> which stated in its introduction that “the DRH and the Staff Association continued to work together on various human resource-related issues.”

75. Indeed, the shared goal of constructive work on HR issues was recognized in particular due to the spirit of cooperation shown by the current Chairs of the SA Committee and the Director for Human Resources, who returned following a long absence. The arrival of a new EH at the helm of UPU, who is aware of the history of SMR in the organization, has certainly played a role in releasing the tensions. Ambassador Bishar A. Hussein, as Chairman of the Council of Administration, was led to form a mediation team in 2010 with the Chair of CA C3, Ms. Faouzia Najar. Together they successfully mediated between the involved parties during the peak of the SMR disagreements (2010).<sup>174</sup> The speech by the SAC Chair to the 25<sup>th</sup> UPU Congress helped to elucidate how the situation had escalated. He captured the root cause of the problem, emphasizing managerial respect for regulations and standards, stating that “today, we can say that the Staff Association has maintained an excellent relationship with the Human Resources and Social Relations Directorate. Progress can be made, in particular with regard to the drafting of new administrative instructions.”<sup>175</sup>

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<sup>173</sup> Found in the UPU documentation portal system with the symbol of Ca\_drh-1\_d001\_ad00\_an00.

<sup>174</sup> CA C 3 2011.1, document 27, para. 18. “The Chair of Committee 3 was particularly aware of the need to maintain a calm social climate within the International Bureau. To this end, she personally contributed, during a mission to the International Bureau, to mediation on relations between the Staff Association and the International Bureau General Management.”

<sup>175</sup> Following the positive presentation on SMR in the Congress (doc 14), reference neither to SMR nor to the United Nations common system was made in the resolution C 74/2012 on “Management of staff of the International Bureau of the Universal Postal Union” ... as if nothing had happened in this respect between the 2008 and 2012 Congresses.

## **World Food Programme (WFP) (2009-2012)**

1. Overall SMR quality at WFP with 5140 staff members<sup>176</sup> was rated as “average” by both WFP management and the two SRBs presently existent in the organization: Union of General Service Staff (UGSS-WFP)<sup>177</sup> and the WFP Professional Staff Association (PSA). While all sides noted that there had been no Staff-Management crises per se, SMR in WFP is nonetheless impacted by some structural peculiarities which in turn affect the quality of Staff-Management dialogue and the ability to represent staff effectively, as outlined below.

### **A. Precarious/non-representation of General Service staff in the field<sup>178</sup>**

2. Among WFP’s GS staff, those working at HQ (Rome), in Liaison Offices and in Brindisi receive WFP contracts. All other local fixed-term GS staff in regional bureau and country offices working for the Programme hold WFP contracts that are administered by UNDP on WFP’s behalf under the United Nations Staff Rules and Regulations. While these locally recruited GS field staff account for close to half (48 per cent, 2476 persons) of WFP’s total workforce, their interests cannot be represented by UGSS-WFP due to their contractual status. While they used to be generally eligible to join local UNDP SAs, such eligibility was seriously challenged in 2012,<sup>179</sup> making unclear the avenues for their future representation. Even in cases where they can join local UNDP SAs, two immediate challenges become evident: first, they have no central coordinating mechanism to express their collective concerns to the organization whose mandate they are serving (WFP). Secondly, even if a local UNDP SA exists in every country office with WFP staff, its capacity and effectiveness to adequately defend staff interests may vary greatly, depending on the availability of experienced staff representatives and other limitations typical to field offices.<sup>180</sup> Indeed, UGSS has expressed concern on the extent to which the interests of the organization’s GS field staff were actually being represented by UNDP SAs.

### **B. Restrictions to freedom of communication**

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<sup>176</sup> As of 31 August 2011.

<sup>177</sup> UGSS represents GS staff in both WFP and FAO. Separate responses to the JIU questionnaire were provided by UGSS SRs in each organization. Subsequently, this section only focuses on concerns raised by UGSS SRs in WFP while the FAO specifics section outlines concerns raised by UGSS SRs in FAO.

<sup>178</sup> A vast number of WFP employees hired as service contractors or SSA and considered as “non-staff” also have no representation.

<sup>179</sup> WFP-UGSS noted that in 2012 a staff member requesting assistance was rejected by the local UNDP-SA on the basis that the individual concerned was working for WFP and thus needed to refer to WFP SRBs. The case was brought to the attention of the local UN Resident Coordinator who concluded that WFP employees needed to refer to WFP SRBs as UNDP only administered their payroll but not their conditions of employment. The result has been that national field staff serving WFP must now establish their own local Staff Association within WFP if they are to benefit from staff representation. Provided that they succeed in attaining recognition, such Staff Associations can only bring cases to the attention of the Country Director, but do not have the authority to escalate cases to a higher level. Since April 2012, the newly appointed Executive Head of WFP committed herself to change the current situation and set up a Task Force to work on the “National Transfer project” with the aim to establish the contractual modality, administrative infrastructure and information systems to transition National Staff (GS and P) from UNDP to WFP/FAO SRRs. This is an on-going process whose successful resolution would bring clarity to the issue of representation for all staff serving WFP.

<sup>180</sup> See JIU/REP/2012/10, Section VI. C, Challenges in the Field.

3. Both WFP SRBs (UGSS-WFP and PSA) have expressed concern on management impediments with regards to their freedom to communicate with the staff-at-large. UGSS WFP noted that WFP management did not permit it to use the organization's internal email system to formally communicate officially with the GS field staff. It alleged that if it wanted to send a message to all staff, it would have to get clearance from ICT which would in turn seek clearance from HR. PSA also noted that it had faced restrictions in sending emails to all staff, highlighting a specific instance when UGSS and PSA tried to send a message to all WFP staff regarding a statement by the United Nations SG. In addition, the PSA encountered obstacles from the Internal Communications office in posting SAs' announcements on the WFP Intranet. It noted management's explanation that information posted on the intranet was reserved to themes that concern all staff and not only one specific category. WFP management refuted assertions that it had restricted the communications abilities of the SRBs, stating to the JIU that the SRBs had full access to all WFP bulletin boards and were regularly provided with the staff mailing lists to enable them to correspond via email with their constituents.

4. In the case of UGSS, the discrepancy between the assertions of the two sides (staff and management) may arise from their differing interpretation of constituents, with WFP management noting that the UGSS Recognition Agreement through FAO (which outlines the categories of staff represented) does not extend to local field staff either in FAO or WFP. Evoking the right to freedom of communication,<sup>181</sup> the **Inspector recalls the importance of implementing Recommendation 2 (JIU/REP/2012/10) which calls upon the Executive Heads of all organizations to facilitate the access of SRBs and elected SRs to all available and necessary means of communication with the staff-at-large, without censorship.**

### **C. No negotiating rights**

5. Despite the clear existence and applicability of FAO Regulation 301.8.1 (which states that "*one or more representative staff bodies recognized by the Director-General shall maintain continuous contact and **negotiate with the Director-General with respect to the terms and conditions of employment of the staff and general staff welfare***") and Rule 8.1 on staff representation and Recognition Agreements passed between WFP (represented by the Executive Director) and PSA and between FAO and UGSS (representing GS staff in FAO and WFP) – both of which clearly recognize the right of the SRBs to negotiate on the terms and conditions of employment and other issues affecting general staff welfare, **all sides acknowledged that in practice, SRBs in WFP did not have a negotiating role.** According to management, the purpose of the Staff Management Council (SMC), the joint body for formal Staff-Management dialogue at WFP, was only "to provide a forum for consultation between senior management and staff associations, rather than to serve as a negotiating or decision-making body."

6. The SRBs noted that while negotiation carries with it the idea of joint agreements, the SMC was limited to submitting recommendations that could be ignored or changed. It was little more than a "sounding board" through which they could inform management on issues that were important to them, rather than a forum to constructively discuss and resolve issues. They noted that the SMC's limited impact was exacerbated by "an overly cautious approach by management in including SRs in WFP policy discussion and **an expectation that discussions/negotiations will be adversarial.**" The "better assumption would be that SRs could contribute not only to resolution of problems, but also more importantly to preparing

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<sup>181</sup> JIU/REP/2011/10, Recommendation 2 and paras. 96-98.

policies that will benefit the staff as well as the organization” – an approach that the Inspector encourages.

7. According to WFP management, its ability to negotiate is limited by the fact that the Programme - as an FAO offshoot - **has historically followed the FAO’s Rules and Regulations, gradually adapting them to the WFP manual in line with its operational needs and staffing structure.** However, the process involved is not a straightforward one, as, in order to implement an FAO management rule, the WFP Executive Board first needs to vote on it, prior to which it seeks the views of the SRBs. However, any comments that either WFP management or the SRBs may subsequently add to the rule would then have to be accepted by the FAO DG before WFP management can implement it.<sup>182</sup>

8. On a positive note, SRBs noted that the current ED met with both PSA and UGSS soon after her appointment (April 2012); additionally, management stated that senior WFP management executives also meet with the SRBs. WFP-PSA has acknowledged the current ED’s receptiveness to dialogue during her first months in office and has expressed its hope that such openness will continue.

9. General services staff at WFP appear to have better access to the FAO DG through their UGSS counterparts at FAO. However, WFP staff at professional level no longer have access to the FAO DG after separating from a common SRB with FAO professionals to form WFP-PSA in 2007. Access for both SRBs to WFP own governing body – the Executive Board – was provided only under exceptional circumstances in the past and in this regard, the Inspector welcomes the acceptance in June 2012 of Recommendation 10 of JIU/REP/2009/7 (which states that the WFP Executive Board should institutionalize ways to hear the views and concerns of staff through their respective representation at its annual session) with both PSA and UGSS being invited to address the WFP Executive Board for the first time in June 2012. Additionally, during the same session, the ED requested the Board to institutionalize addresses by SRs at each annual session.

#### **D. Good practices from WFP PSA statute**

10. The Inspector finds merit in, and welcomes the replication of the following useful practices outlined in the PSA statute that serve to further the accountability of elected SRs and limit the possibility of conflict of interest in the performance of their roles:

- (a) Staff members acting directly or routinely on confidential personnel issues as HR Officers are neither eligible for election nor can they be elected to the SC;
- (b) Persons who are appointed to WFP-PSA Audit Committee may not be members of either the SC or any other Statutory Body or Committee of the Association.
- (c) Any SC member absent from three consecutive regular SC meetings, without justification, shall automatically lose his/her seat on the Council.

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<sup>182</sup> WFP General Regulations, Article VII, para. 6 “The Executive Director shall administer the staff of WFP in accordance with FAO Staff Regulations and Rules and such special rules as may be established by the Executive Director in agreement with the Secretary-General and the Director-General.”

## World Health Organization (WHO)

### A. SMR at the Organization level

1. An organization-wide Staff-Management response to common challenges is complicated given WHO's unique structure whereby the regional offices enjoy, for historical reasons, a significantly greater level of autonomy from the HQ compared to regional entities of other United Nations Secretariat or other United Nations specialized agencies. Thus, in addition to the WHO HQ staff association (Geneva), each of the six regional offices<sup>183</sup> has its staff association (SA) as does the IARC<sup>184</sup> in order to effectively represent challenges unique to each region or duty station.<sup>185</sup> At the organization-wide level, the eight SRBs formally come together through biannual or annual meetings of the Global Staff Management Council (GSMC) which serves as the WHO-wide mechanism for Staff-Management consultations with the role to "examine issues relating to personnel policy and conditions of service, and to adopt a report that will include recommendations to the Director-General on such issues".<sup>186</sup>

2. The GSMC TOR and its annex outline a number of useful provisions that can greatly serve to enhance SMR if effectively implemented and respected:

(a) In the realm of accountability and follow-up, the TOR provides for a designated focal point on SMR (who may also be the GSMC Secretary) in the office of the Human Resources Department Director **to ensure that, once approved by the DG, GSMC recommendations are acted upon in a timely manner.** The TOR also provides for local joint Staff-Management committees to review and monitor the implementation of the aforementioned recommendations at the local level and to submit a report on them to the GSMC Secretary one month prior to the next GSMC meeting.

(b) Among its guiding principles, the TOR's annex highlights two essential elements, namely, that **"elected staff representatives will be given sufficient time and resources to carry out their mandate fully"** and that **"management should accept that, in the process of change, staff associations are active players whose views will be respected and who will be brought into the picture from the beginning"**.

### B. The issue of WHO financial constraints and reform

3. While acknowledging its traditionally cooperative relations with HQ management, HQ SA regretted that SMR quality had deteriorated in the recent period, primarily due to the challenges associated with ongoing organizational reform, brought about by the financial crisis and associated budgetary shortfall, resulting in management's initiation of a major downsizing exercise in spring 2011 resulting in the abolishment (between 2011-2012) of 435 posts globally as at 13 May 2012, including 214 at WHO HQ (Geneva) and 235 in AFRO (Brazzaville).<sup>187</sup> While the SAs were of the view that many of these cuts could have been avoided through better planning and foresight, management countered that while all comments provided by the staff associations were taken into consideration, not all of them could be agreed upon as the Member

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<sup>183</sup> Six regional offices: Africa (AFRO), Americas (PAHO/AMRO), South-East Asia (SEARO), Europe (EURO), Eastern Mediterranean (EMRO), Western Pacific (WPRO).

<sup>184</sup> International Agency for Research on Cancer (IARC) based in Lyon, France.

<sup>185</sup> Additionally, many country offices have their own staff associations that in turn coordinate with their respective regional staff associations.

<sup>186</sup> HR e-Guide, III.20 Annexes, Annex 9.A Terms of Reference of the Global Staff/Management Council, 1 July 2008.

<sup>187</sup> EB131/INF.DOC/1 (26 May 2012).

States expected management to live within the means of the budget envelope. For the organization to have meaningful cost reductions, staffing needed to be cut, as it accounted for 50 per cent of the organization's budget. The SAs outlined a series of concerns regarding the reform process in their statements to the biannual meetings of the WHO Executive Board in both 2011 and 2012.<sup>188</sup> For the concerns raised during the January 2012 session, management provided a point-by-point response to the SAs, detailing its rationale for flaws in many of the assertions made.

4. Management particularly rejected assertions of any passiveness on its part in the run-up to the staffing cuts, including SA assertions that such cuts could have been avoided through better planning, noting that it had closely monitored and evaluated the potential impact of the global financial crisis since 2008, and in anticipation of the 2012-2013 financial situation, it began the process of downsizing in late 2010 through extensive engagement with the SA and affected staff. As a result, staffing costs had been reduced at HQ to a level which could be accommodated by the approved 2012-2013 budget: they were US\$8 million per month lower as a result of the cuts (approx. US\$75 million per month compared to US\$83 million per month during the last biennium), a saving of almost US\$200 million over the biennium as a whole. The full year biennial salary cost was estimated to be approximately US\$1.8 billion, which was in line with the 2012-2013 budget approved by Member States.

5. To deal with the reform related challenges, management stated that it undertook steps to reduce costs while attempting to minimize job losses including: initiating processes to evaluate the vulnerability of each unit (vulnerability assessment) to propose a new unit design and organisational chart, based on the resources available in the near future (Road Map Review Committee)<sup>189</sup> and to eventually assign staff against remaining positions (re-profiling);<sup>190</sup> outsourcing the highest possible number of enabling functions; and enforcing off-shoring to low cost duty stations – a move supported by WHO Independent Expert Oversight Advisory Committee (IEOAC) in its May 2012 Annual Report to the PBAC.<sup>191</sup> Management also offered support services to staff whose positions were being cut, including, among others, career transition support (career development intranet site, career support workbook, one-to-one career support, career support helpdesk) and psychological support.<sup>192</sup> Management asserted that, in carrying out these steps, the HQ SA had been involved both in the design and in the

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<sup>188</sup> EB129/8, EB130/INF.DOC./2 and EB131/INF.DOC./1.

<sup>189</sup> WHO Information Note 03/2011 on the Road Map Review Committee (19 January 2011) which was established by the DG (following consultations with HQ-SA) to review proposals for the abolition of a significant number of longer term positions in the context of the restructuring of a department. "Significant" was determined to be 5% or 5 positions filled by holders of fixed-term or continuing appointments, whichever is the lower, monitored over a rolling 12-month period. The membership of the Committee clearly provides for a representative from the WHO-HQ-SA.

<sup>190</sup> See WHO Information Note 05/2011 on the Reprofiting Process at Headquarters (1 February 2011) which outlines the process to follow in order to allow staff to be matched to positions in a new structure following a major restructuring exercise. The Note clearly provides for the participation of a HQ-SA representative in the initial meeting to present the process to all affected staff. Additionally, and more importantly, the Note stipulates that among the four members comprising the Ad-Hoc Review Committee (entrusted with reviewing the matching suggestions provided by management), one must be a representative of the Staff Association and another must be "a senior staff member from a different cluster, acting as neutral party appointed in consultation with the Staff Association."

<sup>191</sup> The IEOAC report also reiterated its support for the WHO reform process and called for directly linking it to a clear action plan with a set time frame, a related budget and a business plan. It additionally supported the WHO Secretariat's plan to use hedging during the next biennium with a phased approach to the purchase of forward foreign currency exchange contracts of no more than 12 months' duration. EBPBAC16/3 (20 April 2012).

<sup>192</sup> For more information, see WHO Information Note 18/2011 on Support Measures for Staff affected by Restructuring at Headquarters.

implementation of these actions, and had been part of all committees and evaluation groups. Whether formally (monthly meeting with minutes prepared and agreed upon by both sides) or informally (weekly bilateral meetings between HRD and HQ SA President as well as phone calls/email exchanges in between these meetings), regular discussions between the two sides occurred via a thorough and transparent consultative process.

6. Despite those management's efforts, a staff pulse survey conducted by HQ SA (23 March – 23 April 2012) among HQ staff (1029 respondents out of 2041) to collect information/opinion with regards to factors affecting their conditions of work revealed various pending concerns that include the following: 2/3 of staff respondents feared reprisal if they disagreed with higher levels; only 20 per cent of respondents were of the view that top management cared about staff; staff satisfaction with management progressively decreased when pointing from junior to senior officials; perceived accountability for management, finances and human resources was low; 93 per cent of respondents agreed on the need for improvements in the internal justice system; and WHO reorganization was not seen as fair, transparent and objective by all, including perceptions of short-term staff being treated more unfairly than others as well as increased workload (68 per cent of respondents) and decreased motivation.<sup>193</sup>

7. In its defence, management wrote to the JIU team noting it had expressed serious concerns on various aspects of the survey via email exchanges with the HQ SA, both during the survey preparation process as well as on its findings. These allegations include use of an unscientific methodology; certain (leading) questions being tailored to attain certain outcomes; inclusion of survey questions (on the area of performance management) which were outside the remit of the HQ SA as set out in the WHO Staff Regulations and Staff Rules; and questionable validation processes including no means to safeguard against one individual responding multiple times to the same survey. Management explained that the aforementioned factors collectively prevented it from undertaking the survey jointly with the HQ SA as was originally planned. For its part, HQ SA noted its inability to take on board all management concerns due the fact that the two sides fundamentally disagreed and/or had varying interpretations with regards to several survey questions/topics.

8. In line with the survey findings, the HQ SA has called for strengthening the HR function, including better empowering the HR department and furthering consistency in HR policies organization-wide. The HR Department, for its part, countered that WHO's highly decentralized structure, both at HQ (with the HR Assistants in the clusters not reporting to HRD Director) and in the regions, was not conducive to strong central leadership in HR matters. Additionally, it also had to deal with its own share of staffing cuts, given a 30 per cent reduction in staff from 71 to 55 between May 2009 and September 2012.

### **C. Moving Forward**

9. Taking into account both progress attained and setbacks in the reform process, the WHO SAs collectively proposed some remedial actions in the realms of transparency, accountability and internal coordination, worth to be seriously considered. It called for better management, accountability and more responsive HR support<sup>194</sup> in their addresses to WHO Executive Board (EB) in 2011-2012. In moving forward, **the Inspector welcomes the acknowledgment by both sides (HQ SA and HRD) that the SAs have been regularly consulted with, as**

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<sup>193</sup> PowerPoint Presentation of Staff Pulse Survey, Initial Results (emailed to management by HQ-SA Acting President on 1 May 2012).

<sup>194</sup> EB129/8 (18 May 2011) and EB131/INF.DOC./1 (26 May 2012).

**concerns the WHO reform process, through informal and formal consultation processes. He appreciates the qualification by HQ SA of Staff-Management communication, information, consultations and negotiations quality as generally “good” at the HQ.**

10. Improved SMR necessitates further concretizing their efforts in this regard. Management should consider seriously the SAs concern that the impact of its involvement in the consultative processes should be demonstrable through informing and shaping WHO transformation. Reform related proposals should be conveyed to them well in advance to allow them to consult all relevant stakeholders and respond adequately, particularly in light of the fact that none of the SRs are currently on full-time release. The SA, for its part, should realize that management may not always be able to implement its proposals given that the Member States expect it to live within the means of the budget envelope.

## World Intellectual Property Organization (WIPO) (2009-2012)<sup>195</sup>

### A. Events leading to a deterioration in SMR

1. SMR at WIPO, a largely HQ-based organization with a total headcount of 1190 (931 budgeted posts and 259 temporary employees),<sup>196</sup> is classified as “poor/challenging” and deteriorating by both management and the WIPO Staff Association (SA) which counts upon 679<sup>197</sup> members. While management points to the election of a “difficult” new Staff Council (SC) in May 2010 as the beginning of the downturn in relations, the SC notes that serious strains began the same year when Staff Rules and Regulations (SRRs) stipulating the need for management to consult with the SC on appointments to two key oversight posts – the Ombudsman and Ethics Office Chief – were not respected, resulting in the SC terming the process as flawed and taking the case to the ILOAT.

2. Further deterioration occurred on 27 September 2010 when the SC President, in his annual statement to the subsidiary organ of WIPO’s governing body, the WIPO Coordination Committee, made numerous allegations against the administration.<sup>198</sup> Management provided its formal responses to the allegations on 4 April 2011. Taking the allegations seriously, Member States convened a special Coordination Committee meeting in July 2011 to specifically address all charges raised. During the meeting, following an independent evaluation, the Coordinating Committee Chair concluded that “there has been resolution on most of the issues and that the remaining issues are being addressed”. The Chair, however, noted “the need for improved communication and greater buy-in for the restructuring exercise, which seems to be at the root of many of the issues raised.”<sup>199</sup>

3. SMR were also negatively affected when the work of a Joint Consultative Group (JCG) constituted in December 2010 to discuss revisions of certain key provisions of the Staff Rules and Regulations was interrupted in May 2011 due to SRs suspending their participation to protest against the imposed transfer order of the SC Vice-President to another duty station.<sup>200</sup> In July 2011, management published texts on all the topics discussed during the JCG and asked the SC to provide comments by September 2011, to which the SC did not respond. According to management, the issue the SC had with the published texts was that while the topics were discussed the actual text was not.

### B. Specific Challenges

4. Both the management and the SC have outlined the major challenges confronting SMR at WIPO, the key ones among which are outlined below:

#### B.1. Inadequate consultations

5. For the SC, deficiencies in governance and accountability at WIPO are central to strained SMR and manifested through non-consultation on key issues affecting staff welfare. It alleges

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<sup>195</sup> Consult chapter V on HR of the JIU report JIU/REP/2014/2, especially paras. 148 to 151 and figures 10, 12 and 16.

<sup>196</sup> 30 June 2011.

<sup>197</sup> As of 14 December 2011.

<sup>198</sup> WO/CC/63/8, Annex I.

<sup>199</sup> WO/CC/64/2, Report of the Chair of the WIPO Coordination Committee on the extent of resolution of the issues raised by the President of the Council of the WIPO Staff Association at the Coordination Committee meeting of September 29, 2010.

<sup>200</sup> While the transfer order was subsequently rescinded, participation in the JCG remained suspended.

that apart from deliberate<sup>201</sup> non-consultation on appointments to the posts (aforementioned), various aspects of the HR reform process had also not been adequately consulted on.<sup>202</sup> In the SC's view, this constitutes a clear violation of WIPO Staff Rules 8.1.1(b) and (c) that state as follows:

*Rule 8.1.1(b) The Staff Council shall be consulted on questions relating to staff welfare and personnel administration, in particular principles governing appointment, promotion and termination, and on questions pertaining to salaries and allowances. The Staff Council shall be entitled to make proposals on such questions to the Director General on behalf of the staff.*

*Rule 8.1.1(c) Except in cases of urgency, general administrative instructions or directions on questions within the scope of paragraph (b) above shall in advance be brought to the notice of the Staff Council for consideration and comments before being put into effect.*

6. The perceived lack of dialogue led the SC to view restructuring and realignment initiatives within the organization as mechanisms for retaliation through, for example, the closure of sections and downgrading of departments and/or divisions or sections. According to the SC, uncertainties over the implications of reforms on job security made the staff-at-large apprehensive of either expressing themselves openly or approaching the Council for support due to fear of retaliation by management. Management, for its part, offered a different view, alleging that most among staff-at-large remained silent as they are fearful of opposing the SC. For the management, the SC was deliberately opposing every decision taken by the administration in order to use them in the future as bartering tools.

### **B.2. Improper investigation practices**

7. Improper investigation practices were a serious cause of concern for the SC, as an investigatory function was created without first establishing investigative procedures. While an investigative procedures manual was subsequently issued in July 2010, the SC alleged that prior to that, some staff members under preliminary evaluation of the need for full-fledged investigation were never informed - when they were summoned - on what the alleged charges were, except when they were formally investigated. To make matters worse, during 2009-2010 Safety and Security Office staff (recruited on an ad hoc basis from the police) allegedly undertook investigations. These investigations should have been performed by the Internal Audit and Oversight Division and went well beyond the scope outlined in a WIPO office instruction which limits them to undertaking preliminary investigation on issues like improper entry or fire in the premises.

### **B.3. Lack of direct access to Member States**

8. The SC laments the absence of formalized direct access to Member States via WIPO's legislative body – the Coordinating Committee. At the time of the review, the SA President could only present an annual statement to the Committee, access to which was determined on

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<sup>201</sup> In the SC's view, non-consultation was deliberate on the part of management as it "would take 2-3 years for its decision to be challenged and ruled on by the ILOAT – precious time during which those selected to these posts could do whatever managements saw fit or refrain from doing what management did not want to approve of."

<sup>202</sup> The SC noted that it has regularly prioritized the need for strategic realignments of the organization to take into account the precarious conditions of those on short-term contracts (11 months and 3 weeks), some of whom have been in the organization for as many as 15 years; a joint Working Group on Long-Serving Temporary Employees was subsequently established.

an ad hoc basis by its Chairperson. Subsequently, in the SC's view, WIPO Member States are not fully aware of SMR challenges facing the organization with their interests generally limited to financial aspects. Direct access would allow Member States the possibility to address SMR challenges in a timely manner - a subject area in which they have responsibility as they are the ones who determined the Staff Regulations.

#### **B.4. Questioned representativeness of the SA**

9. For its part, WIPO administration has questioned the assertion of the SC to speak on behalf of the staff-at-large, given that a few hundred staff are not SA members and thus not entitled to vote in SC elections. To ensure that all staff voices are heard, the administration is of the view that an open environment in which multiple SRBs can compete to represent all staff is likely to foster SMR. The SA, for its part, has expressed its openness to this possibility, provided that criterion for SRB representativeness is clearly established and met. The SA underscored that as of 1 October 2012, it had 674 members out of approximately 923 staff, subsequently representing 73 per cent of all staff.

### **C. The way forward**

#### **C.1 Proper use of the Joint Advisory Committee**

10. The results of a staff survey conducted by the Administration in 2010 identified communications as a weak point for the organization. Currently, no formal follow-up mechanism is in place to ensure that key decisions are communicated by the Senior Management Team (SMT) to line managers and their staff. The Inspector considers it alarming that in responding to the JIU questionnaire, **the administration noted that no formal Management-Staff consultation structures currently exists**, when Staff Regulation 8.2 clearly established the Joint Advisory Committee (JAC) to “advise the Director General on principles of personnel administration and general questions of staff welfare or any administrative matter which he may refer to it, and shall submit to him proposals for such amendments as it may wish to have made to the Staff Regulations or Staff Rules.” Additionally, Staff Rules 8.1.1.b and 8.1.1.c clearly place upon the Director General a duty to consult.

11. The Inspector is worried by WIPO administration's acknowledgement that the JAC is “mainly used to consider disciplinary measures under Chapter X of the WIPO Staff Regulations and Staff Rules” - when its formal scope clearly called for a much broader role – further highlighting the improper utilization of this vital forum for Staff-Management dialogue, especially if a dedicated joint body exists in this respect, as in many other organizations. As the situation currently stands, the administration, by its own admission, prefers to undertake consultations directly with the entire Staff Council rather than through the formal framework, the JAC. Such a practice of using ad hoc forums frees management from the obligation to either follow through on agreements reached or to ensure parity in representation as is customary in any Joint Body. **The Inspector is of the view that the administration of WIPO must respect the formal texts outlining the scope of the JAC and take immediate corrective measures to utilize it for its intended purpose.** This would greatly improve confidence and trust on both sides if undertaken in good faith.

#### **C.2 Useful practice regarding time release**

12. Rather than stipulating specific hours of time release for individual Council members, the SA Council collectively receives a lump-sum of release hours to divide amongst its ten members as it sees fit. This is a useful practice as it allows the Council to determine who should receive how much release time based on need and availability.

## World Meteorological Organization (WMO) (2009-2011)

### A. General situation of Staff-Management relations (SMR)

1. In this small science-oriented institution (270 staff including 251 in HQ and 19 in six regional offices) with a shared technical culture and limited turnover, where the Staff Committee (SC) as the elected body of the WMO Staff Association (SA) considers itself more as a liaison office between staff and the administration (rather than a trade union), the present state of SMR is qualified as “good” organization-wide both by the Committee and Human Resources Management. While Staff Regulation 8.1, Staff Rule 181.1 and the WMO Code of Ethics (Article 10) formally establish the provisions for staff representation and participation, the Joint Consultative Committee (JCC)<sup>203</sup> provides the platform for Staff-Management dialogue, complemented by staff opinion surveys (e.g. in 2008) and ad hoc management-staff Task Forces (e.g. on updates to standing instructions, staff training, performance appraisal system etc.).

2. **Several JCC practices are useful with regards to the working of Joint Bodies** including: several high level meetings each year (with Director of Administration and HR Chief participating); posting of meeting minutes on intranet; personal follow-up by HR Chief - once advisory agreements are reached and validated by the Secretary General (SG)<sup>204</sup> – through the issuance of service notes, identification of actions to be taken, how and by whom. However, there is a lack of monitoring on agreements reached. While **both sides rate the state of communication and information sharing as good**, the SC rates **consultations quality as “average”** noting that sometimes service orders are issued by management without prior consultation with staff. The situation is worse in regional offices where staff members are generally not consulted on issues that directly impact upon their welfare. Negotiations remain non-existent in WMO where the SG only has the duty to consult.

### B. Notable features

3. A number of notable features can be gleaned from WMO SA’s statutes and practices:

(a) In any given year, only five out of ten positions in the SC are up for elections and outgoing SC members cannot run after serving two full terms (four years). The former provision eliminates the possibility of an entirely inexperienced SC being elected in any given year, while the latter prevents the domination of the SC by the same individuals;

(b) As SC members often face difficulties with their supervisors in obtaining time release to perform their functions, the SC encourages candidates running for election to have their supervisor sign off as one the three sponsors to their SC candidacy application (a requirement to run). This increases the likelihood of supervisors of potential SRs to agree to time release.

(c) Only those staff members who have paid their SA membership dues (currently 51 per cent of all staff) can benefit from services paid for by SA’s funds. Such a policy allows all staff to be represented by the SA while limiting non-essential services to paid-up members.

(d) A SC member can formally provide support to an individual staff member without disclosing that person’s identity to SC members if he/she opts to keep it private.

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<sup>203</sup> WMO Standing Instruction from August 2001, (Article 4.17.2).

<sup>204</sup> Important agreements reached in recent years via the JCC include: updates to the sick leave policy and an agreement on lump sum on shipments policy.

(e) The Inspector welcomes the following three decisions emanating from the WMO Congress (2011)<sup>205</sup> that should be of benefit to SMR at WMO:

(i) Congress's decision to request the SG "to make available, within the next financial period and budget, adequate resources in order to provide new supervisors with information and briefing packages for enhancing their ability to ensure the health, well-being and effectiveness of staff".

(ii) Agreement of the JCC and the SG "that supervisory experience, preferably in an international setting, should be included in future vacancy notices for staff that would have supervisory duties".

(iii) Congress's request to the SG to "carry out a further staff survey in 2012/13, and four-yearly thereafter".

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<sup>205</sup> Cg-XVI/PINK 9.2(1): "Staff Matters, Views of staff on their conditions of service, Report to Plenary on item 9.2".